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ASYLUM IN LEGATIONS AND CONSULATES AND IN VESSELS. II.

IV. *Asylum in America (concluded).*

3. *Paraguay.*

Under the rule of F. S. Lopez in Paraguay, the years 1867 and 1868 present a scene of exceptional disorder, aggravated by a war waged against that country by the allied forces of Brazil, the Argentine Republic and Venancio Flores, the invader of Uruguay. On October 14, 1867, Mr. Washburn, then minister of the United States at Asuncion, apprehending that Lopez might order the city to be evacuated, said:

> Should the evacuation of the town be ordered . . . , it is uncertain whether the foreigners will or will not be permitted to remain. If they are not, I apprehend that many will ask admission to my premises and request protection, which it would be hard to refuse and might be embarrassing to grant. As against the enemy, however, I have not hesitated to say that this legation will give whatever protection it can to whosoever, save notorious criminals, may resort to it in time of danger.

Replying on January 14, 1868, Mr. Seward, then Secretary of State, said:

> Your intention to afford asylum in the legation to those who may resort to it, save notorious criminals, as far as it can be done without compromising your neutral character or that of your country, is approved.

On the approach of the Brazilian fleet in February, the evacuation of the city was ordered. Mr. Washburn, however, refused to leave, and many persons applied to him for shelter.

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Numbers were turned away; but he received about thirty of various nationalities, among whom were two Americans named Manlove and Bliss, and an Englishman named Masterman. On February 22, Mr. Washburn informed the minister of foreign relations that the critical condition of affairs in and near the capital had rendered it necessary for him to take into his "service" several persons in addition to those previously connected with the legation, at the same time transmitting a list of all those then "employed" by him. On this list were Manlove and Bliss. To this communication the minister of foreign relations replied on the following day. Adverting to the fact that the city had been transformed into a military post, subject to the orders of its commander, he declined to recognize Manlove and Bliss as members of the legation. In order to "avoid unpleasant incidents" they might, he said, remain in the legation building; but they could not be allowed to go out, lest they might be arrested by the guards, who had "orders not to let any persons but public officials go about." On the 24th of February, Mr. Washburn wrote another note, saying that he had omitted to specify Masterman as one of the persons attached to the legation and including his name with those previously transmitted. This note, however, was not sent till the 4th of the ensuing April. On the 3d of March, Manlove, while riding on horseback through the streets of Asuncion, was arrested for a breach of military regulations, but escaped, after a violent colloquy with the authorities. A few days later he was again arrested on the street for another violation of military regulations, and held as a prisoner. Mr. Washburn demanded his release, but when the authorities refused to grant it, discontinued the discussion and referred the correspondence to his government, at the same time declaring that the arrest of Manlove appeared to be "a great affront" to the legation, "if not a direct violation of its rights." No representations on the subject, however, appear to have been made by the Department of State.[1]

[1] The circumstances under which Manlove was admitted to the legation of the United States by a man of such high character as Mr. Washburn forcibly illustrate

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On the 20th of June, the minister of foreign relations officially inquired of Mr. Washburn whether Senhor Leite Pereira, a Portuguese subject, was in the legation, and if so, why he remained there. He also requested a list of all persons who, without belonging to the legation, were sheltered in it. Mr. Washburn, while disclaiming any "obligation, except as a matter of courtesy," to respond to inquiries pertaining "to the internal affairs" of the legation, stated that Leite Pereira, who had formerly acted as consul of the King of Portugal, came to the legation with his wife on the 16th of June "in the quality of guests," though he added: "Of his motives in coming here I am not further informed than that they are founded on the representations of Mr. Cuberville, at present in charge of the French consulate." Mr. Washburn also furnished a list of twenty-eight persons of various nationalities in the legation, not mentioned in his note of February 24 as belonging to it. On June 27, the minister of foreign relations wrote that Leite Pereira was "sheltered in the legation of the United States in contravention of all governmental regulations," and asked that, as he was "accused" and must "appear before the proper tribunal," he be delivered to the police officer who would present himself at the legation two hours after the delivery of the note. When the officer appeared, Mr. Washburn refused to comply

the liability of asylum to abuse. According to Mr. Washburn, Manlove was an adventurer who, after serving in the army of the Confederacy in the civil war in the United States, made his way to the scene of conflict in South America, where he succeeded by a ruse in getting through the lines of the allies and sought service under Lopez. His design, which was made known to Mr. Washburn before it was presented to Lopez, was to obtain from the latter blank commissions duly signed and executed, and, returning with them to the United States, to fit out cruisers to prey upon the commerce of Brazil as the *Alabama* and other Confederate cruisers obtained in England had preyed upon the commerce of the United States. As this projected violation of the neutrality laws of the United States was communicated to him in confidence, Mr. Washburn, while discouraging it as not likely to succeed, thought he should abstain from revealing it. Lopez, when the plan was presented to him, locked Manlove up as a spy and deliberated several weeks on having him shot; but in the end he was released and his expenses were paid to Asuncion. When the order was issued to evacuate the city, Manlove was, it would seem without justifiable cause and most unfortunately, received into the legation of the United States, which Mr. Washburn declared to be "for the time United States territory." History of Paraguay, vol. ii, pp. 216–223.

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with the minister's request, but promised to answer his note on the following day. In his answer, dated June 28, Mr. Washburn, arguing upon the immunities of legations and citing the statement of Vattel that for persons charged with "ordinary transgressions," and often "rather unfortunate than criminal," the house of an ambassador might well serve as an asylum, said:

> Under such circumstances I most respectfully request that the specific charges against Mr. Leite Pereira may be made known to me, when, if they shall be of the grave character that shall require it, he will be advised that this legation can no longer give him an asylum.

On July 11 the minister of foreign relations addressed to Mr. Washburn an extended review of the correspondence and of the circumstances out of which it arose. In answer to Mr. Washburn's quotation from Vattel, he cites a subsequent passage of the same writer, in which it is declared that

> it belongs to the sovereign to decide, on occasion, how far the right of asylum which an ambassador claims as belonging to his house is to be respected; and if the question relates to an offender whose arrest or punishment is of great importance to the state, the prince is not to be withheld by the consideration of a privilege which was never granted for the detriment and ruin of states.[1]

It was in view of this passage, the minister said, that he had requested that "Leite Pereira should be placed in the hands of justice." He also referred to the fact that the motive originally assigned for permitting the legation to be used as an asylum, was the approach of the Brazilian fleet, and that it was "nearly five months since the two hostile vessels appeared and were momentarily in the port of Asuncion." "Since that time," he continued,

> disagreeable circumstances have occurred between this ministry and the legation of your Excellency through the provocations given by your refugees, and, nevertheless, not one of them has left that residence in fulfilment of the orders of the government, and on the contrary, others are received, as is proved by your notes. . . . Laying aside, then, the question of the residence of your Excellency in Asuncion, where there

[1] Vattel, book iv, ch. 9, par. 48.

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are no objects of diplomatic attention,[1] I proceed to state to you that the ostensible motive of the asylum given by the American legation having ceased, that asylum must also cease, especially as it has begun to seriously affect the military regulations of the post and the most precise orders of the government. . . . In view of what has been stated, I request you will please dismiss from your hotel to-morrow, before sunset, the said Leite Pereira, as well as all the other individuals who, not belonging to the legation, are at present in it, some as guests and others in other capacities, as your Excellency expresses it.

When the demand of the minister of foreign relations was made known in the legation, all to whom it was intended to apply went away, except Bliss and Masterman. On July 13 the minister of foreign relations asked that they, too, be dismissed, since they were "accused of crimes not less grave than the others whose dismissal" had been required. Mr. Washburn declined to dismiss them, on the ground that he would be abdicating his functions and rights as minister if he acknowledged that the government might ask for the surrender of persons whom he considered as members of his legation. He said that Masterman had come to reside in the legation as a medical attendant in the preceding September, and that when the list of February 24 of persons belonging to the legation was transmitted to the government on the 4th of the ensuing April, no objection was made to his inclusion in it. As to Bliss, who was included in the list of February 22 as well as in that of February 24, it was admitted that the government had promptly refused, on the 23d of that month, to recognize him as belonging to the legation, and had announced that he must confine himself to the legation premises, since he would be liable to arrest if found outside of them. "For the last three months," said Mr. Washburn, Bliss had scrupulously observed this injunction and, besides, had been of great assistance to him in his official duties. It seems that Bliss, who possessed considerable knowledge of languages, was a roving literary hack, and that both he and Masterman had been to some extent in the employ

[1] The note of the minister of foreign relations is dated at Luque, where the government then was.

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of the government before they took up their residence in the legation. The minister of foreign relations, alleging that the two men were implicated in a conspiracy against the government and were sheltered as criminals, refused to recognize Mr. Washburn's claims in regard to them, and demanded their expulsion or delivery. Mr. Washburn still refused to yield, though he promised, as they were charged with holding communication with persons outside, to keep them as close prisoners in the legation till he could send them out of the country, or till such time as the government should not object to their being set at liberty. Under these circumstances they were not disturbed in the legation. But they were seized while accompanying Mr. Washburn to the United States man-of-war *Wasp*, in order to depart with him out of the country.

On September 26, 1868, Mr. Washburn, who had resigned and was then on his way to the United States, sent to the Department of State from Buenos Ayres a despatch in which, besides describing the deplorable condition of affairs in Paraguay, he said:

> Lopez pretended some three or four months ago to have discovered some sort of a conspiracy, and after arresting almost all the foreigners, demanded of me that I should deliver up to the tribunals those who had sought asylum in my house at the time the Brazilian fleet went to Asuncion in February last. To defend these men[1] from the clutches of Lopez, I had a correspondence with the government long enough to make a volume of diplomatic despatches. It was all in vain, however. They all had to go; though none, except Bliss and Masterman, were taken by force.

Owing to the situation in Paraguay, this despatch of September 26 conveyed to the Department of State the first report from Mr. Washburn as to the affairs of his legation since the 17th of the preceding April. Apart from describing Bliss and Masterman as "members" of the legation, all the information it afforded as to their seizure and the abandonment of the legation by other individuals, was that contained in the passage

[1] In writing this account, Mr. Washburn evidently overlooked the case of Leite Pereira, who was received into the legation June 16.

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above quoted. The correspondence to which it refers and from which the narrative of those incidents has been derived, was transmitted with a despatch from Buenos Ayres, October 5, 1868. On the 18th of November, the despatch of September 26, but not that of October 5, having been received at Washington, Rear Admiral Davis was ordered to Paraguay to take such measures as might be found necessary

> to prevent violence to the lives and property of American citizens there, and, in the exercise of a sound discretion, to demand and obtain prompt redress for any extreme insult or violence that may have been arbitrarily committed against the flag of the United States or their citizens.

In a letter to the Secretary of the Navy, preceding the issuance of this order, Mr. Seward says:

> Mr. Washburn's despatch conclusively shows that the situation of all foreigners, including United States citizens, at Asuncion is greatly imperilled, and that especially Porter C. Bliss and George F. Masterman, United States citizens[1] lately in some way connected with the United States legation, have suffered personal violence and have perhaps been murdered.

At the same time Mr. Seward stated that the merits of the controversy could not be understood until the correspondence should have been received; and it was for this reason that the admiral was invested with such general discretion.

When Admiral Davis sailed from Buenos Ayres for Asuncion he took with him General Martin T. McMahon, Mr. Washburn's successor, who had set out for his post in September. In a despatch dated on the United States flag-ship *Wasp*, off Angostura Batteries, Paraguay, December 11, 1868, General McMahon reports what had transpired. Immediately on arriving off the Batteries on the third of December, Admiral Davis addressed a note to President Lopez, stating that the American minister was on board and saying:

> As an indispensable preliminary step to the presentation by General McMahon to your Excellency of his credential letter, I have to request

[1] This was an error, Masterman being an Englishman.

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that Messrs. Bliss and Masterman, the persons arrested and detained in Asuncion while under the protection and attached to the legation of the previous United States minister, be restored to the authority of the United States flag.

In an interview with the admiral held on shore later in the day, President Lopez urged that Bliss and Masterman were guilty of serious crimes and were not members in good faith of the United States legation, and that they were then actually undergoing trial; nevertheless, confiding in the justice of the American government, he said he would deliver them up, though he requested the admiral to withdraw his assertion that they were under the protection of and attached to the legation, lest it might seem that the point had been conceded. On the 4th of December the admiral withdrew his first note and substituted another, in which he omitted all reference to the American minister and merely requested the delivery of the prisoners as "individuals" without reference to their status. On these terms Bliss and Masterman were, after further correspondence intended by the government of Paraguay to save all its contentions, surrendered with expressions of amity on both sides.

It is equally foreign from my purpose either to animadvert upon the desperate and sanguinary character of Lopez, or to pronounce judgment upon the criticisms which Mr. Washburn in his *History of Paraguay* makes upon the amicable course of General McMahon, and of Admiral Davis and other prominent naval officers, in their dealings with the Paraguayan President. But it is remarkable, as affecting both the so-called right of asylum and the expediency of giving it countenance, that, while it was the principal source of Mr. Washburn's difficulties, neither the instructions of Mr. Seward nor the subsequent correspondence complain of the refusal of the Paraguayan government to permit its continuance, though among those who were forced to abandon the legation were several American citizens. It was only in behalf of Bliss and Masterman, the one an American and the other an Englishman, who were not arrested in the legation but outside of it, that redress was asked by Admiral Davis; and in their case the claim of official connec-

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tion with the legation, whether rightly or wrongly alleged, carried with it the assertion of the personal immunity which the diplomatic character generally confers.

The account of this case would be incomplete if we failed to notice the fact that from the time Leite Pereira came to the legation it was closely policed, probably fifty men, as Mr. Washburn stated, being kept on guard day and night.

4. *Guatemala.*

In May, 1870, Mr. Corbett, British minister in Guatemala, gave asylum to one Granadas, who was eluding prosecution for rebellion and whom Mr. Hudson, the minister of the United States, had refused to shield. On hearing that Granadas was in the British legation, the minister of foreign relations inquired of Mr. Corbett whether it was true. Mr. Corbett declined to answer, holding that "according to international usages" no one had a right to ask "any explanations" as to what occurred "within the house of Her Britannic Majesty's representatives." The minister of foreign relations, while admitting "the doctrine of immunity as . . . taught by the practice of enlightened nations," declined to accept Mr. Corbett's contention, since it might wholly defeat the action of justice and "establish the most complete immunity for abuses committed within the habitation of a foreign agent." Meanwhile, soldiers were stationed about the British minister's dwelling, with orders to arrest Granadas, if he attempted to escape. Nor were they withdrawn till, by the acceptance of conditions offered by the government, Granadas obtained permission to leave the country. Not long afterward the British minister went away on leave, and as his going was popularly attributed to the Granadas incident, the Guatemala government at his instance pronounced the surmise to be groundless.[1]

Three months after his departure from the British legation, Granadas and another revolutionist appeared on the Guatemalan border with five hundred men, and stirred up an insurrection

[1] Foreign Relations, 1870, p. 443.

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which resulted in the overthrow of the government. During the attendant commotion, the protection of the legation of the United States was extended to all parties and all nationalities.

The authorities [said Mr. Hudson] have in no instance objected to my action, but approved my course and claimed the protection of the legation. . . . Humanity called for the part I bore, and where there was so much to be justly apprehended, I believed my conduct would be excused, if not fully warranted, in acting in that behalf.

To these representations Mr. J. C. B. Davis, Acting Secretary of State, responded:

The efforts which you have made for the general protection of life and property, during the recent hostilities in Guatemala, meet with the approval of this department.[1]

5. *Salvador.*

In the revolution in Salvador in 1871, the deposed President, Dueñas, found refuge with General Torbert, minister of the United States. The new government immediately placed a guard about the legation and demanded that the fugitive be surrendered for trial, promising that his life should be spared. General Torbert, "having," as he declared, "due respect for the sovereignty of the state," with the concurrence of Señor Dueñas accepted the guarantee of his life and delivered him to the agents of the government. Referring to this transaction, Mr. Fish, then Secretary of State, sent General Torbert a copy of certain instructions to Mr. Bassett, minister to Hayti, of December 16, 1869,[2] and said:

Having, however, whether for sufficient reasons or otherwise, granted a refuge to Mr. Dueñas, you thereby incurred an obligation which, it might be said, more or less implicated the honor of this government in its exact fulfilment. It appears that Mr. Dueñas assented to his own surrender. This assent, however, may be regarded as so important an element in the case that it would have been preferable if it had been given in writing. This would have made it a matter of record, which might have been used in possible contingencies to refute a charge that the surrender was contrary to the wishes of the refugee.[3]

[1] For. Rel. 1871, p. 542. [2] *Infra*, p. 214. [3] For. Rel. 1871, pp. 693–695.

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In April, 1872, charges against Señor Dueñas were presented to the Congress for various malfeasances in office, including the embezzlement and misappropriation of funds, usurpation of office and nepotism, and for assassination in unlawfully causing ex-President Barrios to be shot. The Senate, after investigation, remitted the charges to the ordinary tribunals, and it was surmised that the trial might end in a death sentence.[1] Mr. Fish, on being so informed, instructed the legation in that event to express to the government the expectation that the pledge given to General Torbert would be observed.[2] This contingency did not arise. On July 22 the prisoner was sent under guard to La Libertad *en route* for Panama, the government having taken his bond with five sureties in $10,000 each that he would not return to Salvador within four years without the permission of the authorities, and having required "the hypothecation of all his large estate to abide the result of the civil procedures against him."[3]

6. *Bolivia.*

In 1874 an attempt at revolution, aided by a mutiny in the army, brought up the question of asylum in Bolivia. As many as thirty Bolivian citizens applied to Mr. Reynolds, minister of the United States, for protection against the action of their government. To all applicants he replied that "for criminal offences against the laws of the country, the American flag could afford no protection"; and that "for offences purely political," he "felt assured that the government and the administration of President Frias would not molest the parties implicated." "It was," he said, "common for the defeated party in any revolution" in Bolivia to seek "protection under foreign flags," and especially "under the flag" of the legation of the United States. Consequently he had extended protection to only two persons, named Criales and Poso, both of whom had filed statements to the effect that they were "not engaged, directly or indirectly, with arms in the mutiny"; and that they apprehended molestation because of false reports made to the

[1] For. Rel. 1872, p. 530. [2] *Ibid.* p. 536. [3] *Ibid.* p. 541.

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government by their personal enemies. Subsequently the minister for foreign affairs informed Mr. Reynolds that there were no charges of crime against either of the refugees, but that the government wished him to know that Poso once before "took refuge under the flag of the United States during the time that Mr. Markbreit was American minister, and at the same time was in conspiracy against the lawful government of Bolivia"; and that he was again attempting to do the same thing, by "communicating with outside parties to the injury of the government." Mr. Reynolds responded that if further acts of that character were alleged, he would notify Señor Poso that he could no longer enjoy the protection of the legation. This response the minister for foreign affairs accepted as "completely and highly satisfactory."

On March 20, 1875, Mr. Reynolds reported another attempt at revolution, in which the government palace at La Paz was partially burned. Recurring to the subject on April 7, he said:

> I have refused asylum in this legation to all persons engaged in the burning of the palace building. . . . I was impelled to make this decision from the fact that, had they succeeded in their attempt to completely destroy the building by fire and set match to the magazine of powder, the United States would have had no legation-room in La Paz, if indeed any 'minister resident' living. The further fact that the government of Bolivia could rightfully demand them as criminals, to be tried by the courts of the country for incendiarism and murder, was a serious obstacle to my receiving them in asylum.[1]

In the following October a Bolivian named Suarez ran into the legation and was followed by a police officer, who, finding that Mr. Reynolds was absent, awaited his return. When Mr. Reynolds arrived, Suarez informed him that he desired protection, since there could be no accusation against him of a criminal character, though he might be charged with political offences on the 20th of the preceding March. The police officer knew nothing as to the charges, having received only verbal orders to arrest Suarez and take him to police headquarters. Mr. Reynolds declined to grant asylum, and advised

[1] For. Rel. 1875, pp. 82–89.

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Suarez to respond to any charges against him. Mr. Fish, then Secretary of State, approved the minister's course, saying that it had been "the universal practice" of the United States "to discountenance the granting of asylum by its diplomatic and consular officers." The practice, he said, was "believed to have no good reason for continuance, to be mischievous in its tendencies, and to tend to political disorder"; and the government of the United States, while "not able of itself to do away with the practice," had "not failed on appropriate occasions to deprecate its existence and to instruct its representatives to avoid committing it thereto"; for the practice must necessarily prove "a cause of annoyance and embarrassment to the minister, and tend to bring about questions of a vexatious and troublesome nature," which it was desirable for both governments to avoid.[1]

7. *Mexico.*

In January, 1877, during the revolution which resulted in the elevation of General Diaz to the presidency of Mexico, General F. O. Arce, an opponent of Diaz, upon the occupation of Mazatlan by the forces of the latter, took refuge in the American consulate. A few days afterward, the consul informed the commander of the Diaz forces, Colonel Ramirez, that General Arce was under the protection of the consulate, whereupon the colonel gave assurance that the consulate would be respected. On February 20, Mr. J. W. Foster, then minister of the United States at the city of Mexico, learning that General Arce had taken refuge in the consulate and that there was a possibility of trouble with the military authorities growing out of the fact, wrote as follows:

> It is to be borne in mind that the consulate does not possess the right of extraterritoriality, and that while it is an act of humanity to protect defenceless persons from mob violence and hasty revenge during the transition of governments, it is advisable to avoid giving permanent protection to political refugees, and thus prevent conflicts with the local authorities.

[1] For. Rel. 1876, p. 17 *et seq.*

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It turned out that before these instructions were written a body of armed men had, in the absence of the consul and without his knowledge and consent, taken General Arce from the consulate, and that Colonel Ramirez, upon the complaint of the consul, had promised to restore General Arce and punish the officer making the arrest. But as the captive was not returned, and no steps were taken toward reparation, Mr. Foster presented the facts to the minister for foreign affairs, who subsequently informed him that instructions had been sent to the military commandant at Mazatlan to make a report of the affair, and assured him "that the government would not fail to punish any officer who should be found wanting in courtesy to the consul or to his flag." The case does not appear again, and it is probable that nothing more was done; indeed, before the matter was presented to the minister for foreign affairs, General Arce called upon Mr. Foster, having arrived in the city of Mexico under his parole to report as a prisoner to President Diaz.[1]

8. *Colombia.*

During the insurrection in Colombia in 1885, in which Colon was raided and burned, the President by executive decree levied a war contribution on certain Colombian citizens. On their refusal to pay it, an order was issued for their arrest, when the Argentine minister at Bogota went to the house of one of them, Señor Uribe by name, and escorted him through the public thoroughfare to the apartments of the legation in one of the city hotels. A decree was then issued requiring all hotel keepers to furnish the government with the names of their guests, whereupon the Argentine minister removed to Señor Uribe's house and gave him asylum there. To meet this counterplot, the minister for foreign affairs sent out a circular note in which, after adverting to the great moderation the government had exhibited toward the insurgents, he expressed the hope that the diplomatic corps would not place the government under the necessity of demanding the surrender of persons for whom the

[1] For. Rel. 1877, pp. 398–400.

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authorities might for any cause whatever be searching, since it could not be supposed that any foreign representative, there being no question of defending such refugees against barbarous maltreatment, would desire to "mix himself up in our unhappy domestic conflicts." Having endeavored, but in vain, to induce their Argentine colleague to give Señor Uribe up,[1] the members of the diplomatic corps replied to the circular note, each in his own way, though the responses of the English, German, Spanish, French and Chilian ministers were substantially the same as that of Mr. Scruggs, the minister of the United States. Mr. Scruggs, while maintaining that a minister's house was extraterritorial and could not be invaded "by order of either the civil or military authorities of the local government, no matter how apparent the necessity therefor," said:

> I as frankly admit that these exemptions can never justify a public minister in converting his legation into an asylum; and that if he should do so, and thereby attempt to shield a citizen of the country to which he is accredited from the operation of the local law, his conduct would be justly offensive and his recall might with reason be asked. The right of such asylum is not sanctioned by public law; and even in very extreme cases, and when prompted by the humane impulse to save life, its exercise can be justified only by exceptional circumstances, and then only as a temporary expedient.

The only criticism made by Mr. Bayard, then Secretary of State, on Mr. Scruggs's reply was that it asserted too broadly the extraterritoriality of foreign legations. Mr. Bayard accepted the view, as expressed by Dana in his edition of Wheaton, that the immunities of legations had often been exaggerated, by assuming the idea of extraterritoriality, and not the convenience of nations, as the basis of such immunities; and that, while it was agreed that the functions of ambassadors must be performed with freedom, the ultimate test of the propriety of any exercise of local authority must be whether it constituted "an unreasonable interference with that freedom."[2]

[1] Señor Uribe afterward left the house secretly and went to some place unknown to the public or the diplomatic corps.

[2] For. Rel. 1885, pp. 205–219.

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9. *Hayti.*

In the imperfect social and political conditions existing in Hayti and San Domingo, both legations and consulates have been used as asylums for persons engaged in the sanguinary disturbances that so often occur in those countries, and especially in Hayti. Writing to the minister of the United States in Hayti, October 4, 1865, Mr. Hunter, Acting Secretary of State, said:

> Consuls may harbor political refugees, but as the law of nations confers upon them no right to do this, and as the treaty between the United States and Hayti is silent on the subject, no sufficient cause of complaint would arise if refugees so harbored were to be taken by the local authorities from the consular abode.[1]

In a despatch of May 8, 1868, Mr. Hollister, then minister of the United States at Port-au-Prince, describes the disorders attending the return to that city of President Salnave at the head of his army, after an encounter with insurgents. The city, he said, was in a state of "consternation," and his dwelling was filled with "refugees — men, women and children — to the number of one hundred and fifty." Mobs roamed the streets, as they had done for two weeks, firing their muskets promiscuously. In conclusion he said:

> I beg instructions in relation to the receiving of refugees. It does more mischief here than it does good, and is really, as it is practised, little more than offering a premium for factious disturbances and a bid for sedition. The three *chargés* here are ready to recommend the discontinuance of this much abused custom if our government is ready to take the step.[2]

On May 28 Mr. Seward replied as follows:

> The right of a foreign legation to afford an asylum to political refugees is not recognized by the law of nations as applicable to civilized or constitutionally organized states. It is a practice, however, which, from the necessity of the case, is exercised to a greater or less extent by every civilized state in regard to barbarous or semi-barbarous coun-

[1] Wharton's Int. Law Dig. vol. i, § 104, p. 678.
[2] Dip. Cor. 1868, part ii, p. 354.

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tries. The revolutionary condition seemed to become chronic in many of the South American nations after they had achieved their independence, and the United States, as well as the European nations, recognized and maintained the right of asylum in their intercourse with those republics. We have, however, constantly employed our influence, for several years, to meliorate and improve the political situation in these republics, with an earnest desire to relinquish the right of asylum there. In the year 1867 we formally relinquished and renounced that right in the republic of Peru. This government has also largely modified the exercise of that right among some of the Oriental nations. Thus we are prepared to accept the opinion you have deliberately expressed that it is no longer expedient to practice the right of asylum in the Haytian republic. Nevertheless, we should not be willing to relinquish the right abruptly, and in the midst of the anarchy which seems to be now prevailing in Hayti, in the absence of matured convictions on your part. Nor do we think it expedient that it should be renounced by the United States legation any sooner or in any greater degree than it is renounced by the legations of the other important neutral powers. With these reservations, the subject is confidently left to your own discreet judgment.[1]

On June 25 Mr. Hollister reported that, owing to the breaking out of disease in the legation, President Salnave had as a "sanitary measure" agreed to the safe departure of the women and children, and had permitted all the men to be put on board a merchant vessel for New York, except six, who with the consent of the President remained under the diplomatic roof. On this report Mr. Seward observed:

> I see no reason to censure or disapprove of your proceedings mentioned, by which you obtained relief from the excessive incumbrance of refugees. The proceeding is in harmony with the instructions you have received from this department, and with the settled policy of the United States. . . . In all cases the exercise of the right [of asylum] should be attended as far as possible with delicacy towards the state concerned, and with forbearance from all appearance of arrogance and dictation.[2]

On December 16, 1869, Secretary Fish, on the occasion of an insurrection in Hayti, wrote to Mr. Bassett, Hollister's successor, the following instructions on the subject of asylum:

[1] Wharton's Int. Law Dig. vol. i, § 104, p. 678.
[2] Dip. Cor. 1868, part ii, p. 360.

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Occasions for this have of late years frequently arisen in the independent states of this hemisphere, but the proceeding has never been sanctioned by the department, which, however, appreciates those impulses of humanity which make it difficult to reject such appeals for refuge. The expediency of granting an asylum in such cases, especially by consuls, is more than questionable, and the obligation to take that course has no foundation in public law, however in Hayti or elsewhere it may be tolerated and customary. While you are not required to expel those who may have sought refuge in the legation, you will give them to understand that your government cannot on that account assume any responsibility for them, and especially cannot sanction any resistance by you to their arrest by the authorities for the time being.[1]

In March, 1872, Mr. Jastram, vice-commercial-agent of the United States at Saint Marc, Hayti, afforded asylum to General Batraville, who was pursued for proclaiming an insurrection. The chief of the department demanded that the fugitive be given up, and when the demand was refused, sent troops to arrest him. At the consular office a fracas ensued, and the troops not only searched the office and arrested the general, but they also seized Mr. Jastram and took him through the public streets with many demonstrations of violence. From this "undignified position," as he termed it, Mr. Jastram was rescued through the intervention of the French vice-consul. Mr. Bassett, in accordance with the instructions of December 16, 1869, declined to make any claim on account of the arrest of General Batraville, but he obtained an expression of regret from the Haytian government for the indignity to the consul and a promise of future protection to consular officers. He also demanded the punishment of the officer at the head of the offending troops; but the government met this demand to Mr. Bassett's entire satisfaction by assuring him that it would not fail to censure or punish that officer, if he had not "paid, in his own person, the last tribute to nature." Mr. Hale, Acting Secretary of State, congratulated Mr. Bassett that the case had been "adjusted upon a basis compatible with the honor of both governments."[2]

In April, 1872, the British vice-consul at Cape Haytian

[1] For. Rel. 1871, p. 695.

[2] *Ibid.* 1872, pp. 264–284.

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caused great excitement by receiving political offenders and refusing to give them up. The British and American consular representatives at Gonaives pursued the same course, and the authorities stationed guards about their offices. Ultimately the refugees were delivered to Haytian agents by whom they were embarked.[1] But in March, 1873, the authorities of San Domingo took from the British consulate at Puerto Plata, in that republic, by force and against the consul's protest, three Dominicans who had sought asylum there after heading an armed demonstration against the cession of Samana Bay to the United States. Mr. St. John, British minister at Port-au-Prince and *chargé d'affaires* to San Domingo, immediately demanded their release and, with the intervention of a British man-of-war, compelled the Dominican authorities to give up the prisoners, censure the officers concerned in their arrest and salute the British flag.[2] On the first of August Earl Granville, on learning the facts, instructed Mr. St. John to inform the government of San Domingo, as well as all Her Majesty's consular officers there, that the British government had determined to abandon the practice of receiving political refugees in its consulates in that republic.[3]

In March, 1875, the British minister in Hayti granted asylum to General Lamothe, whom the national constituent assembly had taken steps to prosecute for unfaithfulness in office as minister of the interior and of foreign affairs under the administration of President Saget. It seems that none of the cabinet of President Saget had rendered any accounts, and as one of them, named Rameau, was in the cabinet of the ruling President, Domingue, it was thought that the prosecution of General Lamothe had an ulterior motive. It was, however, finally arranged that he should return to his home on giving security for any sums he might have misappropriated, the government guaranteeing him against any irregular proceedings. Subsequently, on the receipt of a summons from a criminal tribunal not possessing jurisdiction of the case, General La-

[1] For. Rel. 1872, p. 270; 1873, vol. i, pp. 465–473.
[2] *Ibid.* 1873, vol. i, pp. 460–463.
[3] *Ibid.* 1874, p. 584.

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mothe returned to the British legation, but he again resumed his liberty on an assurance given by President Domingue to the British minister that the irregular proceedings would be discontinued.

On the 1st of May the country was thrown into a state of wild disorder. In the execution of a decree issued that day, assuming extraordinary powers and banishing forty-four persons whom he charged with conspiring against the government, President Domingue sent out squads of troops to make arrests. Many persons were seized and some were shot down in the streets. Ex-ministers Pierre and Brice, who forcibly resisted arrest, were besieged and killed in their houses, and in the fusilade of the soldiery the British and Spanish consulates were fired into. Simultaneously a company of troops was sent to take Boisrond Canal, charged with being the chief conspirator, who was at his home near La Coup. With four companions, two of whom were killed in the struggle, he fought his way to La Coup, and from thence escaped to the country house of Mr. Bassett, where he arrived with his surviving companions early in the morning of May 3. There were already at Mr. Bassett's house three persons, named Alerte, Iacinthe and Modé, who were included in the decree of banishment. On the 2d of May President Domingue issued another decree, declaring that, as Boisrond Canal had answered a legal requisition by recourse to arms, he and "all his followers" were put outside the pale of the law.[1] When Mr. Bassett went to his office in Port-au-Prince on the 3d of May, he received a note from Mr. Excellent, secretary for foreign affairs, stating that the government had been informed that there were certain rebels in his house and asking for a list of them. This was followed by another note specifically soliciting the surrender of Modé, Iacinthe and Alerte. Mr. Bassett refused to comply with either of these requests, on the ground that it had been the uniform practice in Hayti to furnish a list of refugees only with a view to their release or embarkation.

When Mr. Bassett returned to his home on the 3d, he found

[1] This and other violent features of the case render it very exceptional.

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it surrounded by large numbers of disorderly troops who stopped up the avenues of approach and prevented the free egress and ingress of himself and his family, besides creating apprehensions of personal violence. On the following morning, when setting out for his office, he was stopped by some of these men, who seized the bridle of his horse, drew their weapons and used insolent language. One of his servants also was stopped and rudely treated while returning from market. Mr. Bassett asked that the troops be "at once retired from such near vicinity" to his house, and that those who had participated in the proceedings complained of be brought to a sense of responsibility. Mr. Excellent expressed regret at the disrespectful acts complained of, and assured Mr. Bassett that orders had been given to the agents of the government to observe proper respect towards him, and to permit those attached to his suite to come and go with freedom and security. He did not refer to the request for the removal of the troops to a greater distance. Two weeks later Alerte, Iacinthe and Modé, together with one of the companions of Boisrond Canal, were permitted to embark, and only the latter and his younger brother remained in the legation. Two persons who were in the house of the British minister were also allowed to depart.

In reporting these May incidents to his government, Mr. Bassett defended his concession of asylum on the ground that it was necessary to prevent the refugees from being shot down. Moreover, he said that the government of Hayti, besides uniformly countenancing the practice of asylum, had once or twice refused to assent to its discontinuance, and that lately it had arrested negotiations for a consular convention with the United States by refusing to forbid the practice even in inferior consular offices. He also stated that in February, 1870, he had been instructed by Mr. Fish that since the custom was tolerated in Hayti by the other great powers, the Department of State was not disposed "to place the representative of the United States in an invidious position by positively forbidding him to continue the practice"; and in this relation Mr. Bassett said that the British minister had received a communication from

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the Earl of Derby approving his action in granting asylum to the persons who were under his roof.[1] On June 4, the decree of outlawry against Boisrond Canal and his followers still being in force, Mr. Fish wrote to Mr. Bassett as follows:

It is regretted that you deemed yourself justified by an impulse of humanity to grant such an asylum. You have repeatedly been instructed that such a practice has no basis in public law and, so far as this government is concerned, is believed to be contrary to all sound policy. The course of the diplomatic representatives of other countries in receiving political refugees upon such occasions is not deemed sufficient to warrant this government in sanctioning a similar step on the part of the representatives of the United States. Among other objections to granting such asylum it may be remarked that that act obviously tends so far to incite conspiracies against governments, that if persons charged with offences can be sure of being screened in a foreign legation from arrest, they will be much more apt to attempt the overthrow of authority than if such a place of refuge were not open to them. Mr. Preston has been here by order of his government to ask that you may be directed to set at large the refugees who have sought your protection. I answered him, however, that though it might have been preferable that you should not have received those persons, it was not deemed expedient to comply with his request. I added that if his government would apply to you for them, in order that they might be tried, you would be authorized to give them up, provided the government gives you its assurance that no punishment shall result from the trial, but that, if convicted, the parties will be allowed, without molestation, to leave the country. If, too, the persons who are with you should themselves or through you offer to surrender to the authorities on the same condition, and it should be acceptable, you will dismiss them.

Before Mr. Bassett received this instruction, a new device was adopted to obtain the dismissal of the refugees. In order to worry him into compliance, the bands of armed men who overran his grounds and who had continued to act in an insolent

[1] Mr. Bassett subsequently reported that on June 23 his Lordship again wrote to the minister and, while approving his action in regard to the refugees in question, said: "You should, however, endeavor to arrange for their quitting Hayti." Mr. Bassett reports that the British minister, Major Stuart, when informing the minister for foreign affairs of the contents of Lord Derby's first instructions, said: "Now, Mr. Minister, I wish it distinctly understood that from this day forward I shall receive and protect, as I may judge best, in my legation any and every person who may apply for my protection. This I wish your government to understand well."

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and offensive manner, began to spend the night in yelling, so that it was impossible for any one in the house to sleep. On the 26th of June Mr. Bassett addressed a note to Mr. Excellent, saying that while he did not dispute the right of the government "to exercise its own rightful measures of police within its own jurisdiction," such measures ought to be enforced "in such a way as not to become a marked trespass upon the rights and immunities of foreign ministers." The complaint made by Mr. Bassett was brought to the attention of Mr. Preston, the Haytian minister in Washington, by Mr. Cadwalader, Acting Secretary of State, August 6, in the following terms:

> It cannot be believed that these annoyances are instigated by the Haytian government, and perhaps it may not be aware that they are practised. However this may be, it is expected that they will at once be discontinued. If this expectation should be disappointed, it will be regarded as an unfriendly proceeding on the part of the Haytian government. Indeed, the demonstrations adverted to and all the circumstances make it advisable, in the opinion of the President, that a United States man-of-war should visit Port-au-Prince.

It was not, however, till September 7 that Mr. Hunter, Acting Secretary of State, informed Mr. Bassett that it had been determined to send a man-of-war to Port-au-Prince with a view to his "protection from insult." This determination was reached after the receipt on the 2d of the month of dispatches from Mr. Bassett saying that the annoyances of which he had complained were increasing.[1] He also stated that the government had resorted to the expedient of trying the refugees in the legations *par contumace* and had condemned several to death.

Meanwhile negotiations were drawing to a close in Washington. Adhering to the proposition communicated by Mr. Fish to Mr. Bassett in the instructions of June 4, the Department of

[1] It is noticeable that in the representations of the Department of State there is no denial of the Haytian government's right to prevent by measures of police the escape of the refugees or communication with them, during their sojourn in the legation. This is clearly shown by Mr. Cadwalader's statement that it could not be supposed that the "annoyances" described by Mr. Bassett were instigated by the Haytian government, which had caused the house to be guarded. Mr. Bassett, as has just been seen, admitted the right of police.

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State, while acknowledging Hayti's right to try the fugitives, maintained that the asylum granted them should be inviolable "so long as it should generally be tolerated," and that if convicted, they should be allowed of their own accord to leave the country. When this proposition was made to Mr. Preston, coupled with a requirement that the fugitives should be furnished with passports, he declined to recommend it to his government, insisting that they should be delivered to and embarked by agents of that government, though Mr. Bassett might accompany them. On September 27 the following agreement was concluded:

> It is mutually agreed between Hamilton Fish, Secretary of State, and Stephen Preston, E.E. and M.P. of Hayti, that certain political refugees who for some time past have had an asylum in the residence of Mr. Bassett, the minister resident of the United States at Port-au-Prince, shall receive from the Haytian government a full amnesty for all offences up to the time of their departure from the island; that Mr. Bassett shall give them up; that they shall be placed on board a vessel bound to some other country; that on their way to the vessel they shall be escorted by a Haytian military force, and that Mr. Bassett may accompany them to the vessel. It is to be understood, however, that the said refugees, or any of them, shall not return to Hayti without the permission of the government of the republic.
>
> HAMILTON FISH,
> *Secretary of State.*
> STEPHEN PRESTON,
> *E.E. and M.P. of Hayti.*

On the 2d of October, President Domingue issued a decree commuting the sentence of the refugees to banishment for life, and on October 5 they were embarked by Haytian officers, accompanied by Mr. Bassett and the French *chargé d'affaires*. On the same day the guard was withdrawn from Mr. Bassett's grounds.[1] A few weeks later Mr. Preston submitted to Mr. Fish a series of propositions in relation to the practice of asylum in Hayti. These propositions were to the effect that asylum should never be granted to common criminals; that it should be accorded to "political offenders only in exceptional

[1] For. Rel. 1875, vol. ii, pp. 682–748.

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cases," and that in those cases the refugees should, if the Haytian government insisted, at once be delivered up to justice, though "the minister who had granted the asylum might still use his influence to secure, should there be any reason to do so, an ultimate commutation of the penalty." Mr. Fish replied that while "some, at least," of these propositions appeared to be "fair enough," the government of the United States was not "by itself, and independently of all others, disposed to absolutely prohibit" its representatives from granting asylum in every case in which an application for it might be made, and that until an understanding could be reached with other powers, it would be better to treat each case on its merits than be "fettered in advance by rules which may be found not to be practically applicable or useful." [1]

Domingue's triumph was brief. In April, 1876, his government was overthrown and he fled to the French legation, whence he escaped on a French man-of-war to St. Thomas. His unpopular minister, Rameau, was killed by a mob in the street, while on his way with the French and Spanish ministers to the former's dwelling. Next day Boisrond Canal and other exiles, who had been directing the revolution from Jamaica, landed at Port-au-Prince, and a provisional government was set up with Boisrond Canal at the head. In July he was duly installed as President, with every sign of great popularity. Nevertheless, in the following year we find Mr. Bassett commenting upon the unpatriotic character of certain uprisings in the island; and in March, 1878, his successor, Mr. Langston, announced that Port-au-Prince was in a state of revolution, stirred up during the absence of the President by General Tanis, his "special and trusted friend and adviser." When the President returned and the insurrection was put down, General Tanis and some of his associates fled to the Liberian minister's; three took refuge in the American legation; others yet found asylum in the legations of France and Great Britain and in the Peruvian consulate. The diplomatic corps determined not to deliver up any one in a legation or a consulate.

[1] For. Rel. 1876, pp. 338–344.

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Their action on this subject, said Mr. Langston, "was unanimous and emphatic." Under these circumstances the government abandoned punitory proceedings against the refugees, and designated agents to receive them and convey them to their embarkation. On this incident Mr. Langston observes:

> This seems to be the natural ending of Haytian revolutionary attempts. If they succeed, the administration of the government is changed; if they fail, their leaders and a few of the more conspicuous followers are exiled. Occasionally some more unfortunate one is shot by the mob. It cannot be denied that asylum, as furnished in the legations and consulates located in this republic, is in very important senses objectionable. It is surprising to witness the readiness and assurance with which a defeated revolutionist approaches the door of such places, demanding, as a matter of right, admission and protection. And before the revolutionary attempt is made, when the probabilities of success and defeat are being calculated, this protection in case of defeat is regarded and accounted as sure, and by this means, refuge and escape are sought and gained. Exile is regarded as the only possible infliction; and this, tempered by that sort of care which results from diplomatic and consular interest and assistance. Such interest and assistance always tend, too, to dignify while they encourage revolutionary efforts. Antagonisms, also, as between foreign governments and that whose overthrow is attempted, under such circumstances are quite inevitable, especially if the latter is earnest and decided in its purpose to deal vigorously and severely with the rebellious.[1]

In June, 1879, another insurrection broke out at Port-au-Prince. General François, secretary of war and marine, whom Mr. Langston described as "the most honorable and faithful man" in Hayti, was killed while charging the insurgents, who were put down only after considerable loss of life on both sides. Much property was destroyed, including several public buildings with all their records. The defeated leaders of the insurrection fled by the dozen to the foreign legations and consulates, which emptied their revolutionary contents at night, and without government military escort, chiefly into the British man-of-war *Boxer*. On the 17th of July President Canal resigned and left the country, his course doubtless being influ-

[1] For. Rel. 1878, pp. 431–444.

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enced by insurrectionary movements in the north of the island. Among the members of the provisional government then set up, we find General Lamothe, who was translated from the "central revolutionary committee," and who had been protected by the British minister in 1875, when prosecuted by the government of President Domingue. General Salomon, who was soon elected to the presidency, enjoyed asylum in the Peruvian consulate after the insurrection of March, 1878.[1] A less fortunate individual, however, was General Bazelais. He was the leader of the unsuccessful outbreak at Port-au-Prince in June, 1879, and was among those who were granted asylum and who were subsequently embarked on the *Boxer*. When President Canal resigned, Bazelais proposed to come ashore and accept the presidency, but his former associates were found to be resolutely opposed to him. On the 1st of August he was transferred from the *Boxer* to a German steamer, from which he landed at Gonaives, where he started another insurrection. Defeated by the forces of the provisional government, he fled to Jérémie and found refuge in the French consulate, from which he escaped to Jamaica.[2] On August 6, 1879, Mr. Evarts, then Secretary of State, wrote to Mr. Langston as follows:

> If the so-called "right of asylum" (which this government has never been tenacious in claiming for its officers abroad) is to continue to exist as a *quasi* rule of public law in communities where the conspirators of to-day may be the government of to-morrow, it should at least be so exercised as to afford no ground of complaint on the score of aiding and comforting rebellion by conniving at communication between the refugees in asylum and their associates who are, it may be, engaged in hostilities against the existing government. It is evident that asylum would be as intolerable as reprehensible, were not the refugees supposed to be kept out of mischief as well as out of danger.[3]

President Salomon was driven from Hayti in 1888; and while he was escaping on a foreign man-of-war, the places just occupied by his enemies in the legations and consulates were quickly

[1] For. Rel. 1878, p. 436. [2] *Ibid.* 1879, pp. 564–582.
[3] *Ibid.* 1879, p. 582.

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filled by his partisans. His tenure of power had been unusually long and had been marked by remorseless determination in putting down insurrections which the exiles, *via diplomatica*, in Jamaica and other neighboring islands kept inciting. Most serious of all these outbreaks was that started at Jacmel in 1883 by the same General Bazelais whose career as a revolutionist protected by the legations has already been sketched. On that occasion President Salomon directly charged in the presence of the diplomatic corps that the responsibility for the insurrection rested with the British consul at Jacmel, who had permitted the conspirators to make his consulate their base of operations while enjoying asylum there.[1] On December 15, 1883, Mr. Frelinghuysen, then Secretary of State, wrote to Mr. Langston as follows:

> This government is well aware that the practice of extraterritorial asylum in Hayti has become so deeply established as to be practically recognized by whatever government may be in power, even to respecting the premises of a consulate as well as a legation. This government does not sanction the usage, and enjoins upon its representatives in Hayti the avoidance of all pretexts for its exercise. While indisposed from obvious motives of common humanity to direct its agents to deny temporary shelter to any unfortunates threatened with mob violence, it is proper to instruct them that it will not countenance them in any attempt to knowingly harbor offenders against the laws from the pursuit of the legitimate agents of justice.[2]

In an instruction to Mr. Thompson, Mr. Langston's successor, dated November 7, 1885, Mr. Bayard, then Secretary of State, said that the United States did not claim any right or privilege of asylum, but on the contrary discountenanced it, especially when it might "tend to obstruct the direct operation of law and justice"; that if, however, it prevailed in any country as a custom and was "tacitly or explicitly recognized by the local authorities," the exercise of the customary privilege by American representatives could not be deemed exceptional, and if refugees found their way "to places of shelter under the Amer-

[1] For. Rel. 1883, p. 591.
[2] Wharton's Int. Law Dig. vol. i, § 104, p. 690.

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ican flag," the United States would expect such privileges as would be accorded were the like shelter under any other flag.[1] In October, 1888, Mr. Goutier, consul of the United States at Cape Haytian, instructed his consular agents that in the revolution then pending they were not to receive political refugees, and that if they did, they "would in that case have forfeited all claims to the support" of their government. On October 31, 1888, Mr. Rives, Assistant Secretary of State, reaffirming the views expressed by Mr. Bayard, corrected Mr. Goutier's statement in the following language:

> We do not regard extraterritorial asylum, either in a legation or a consulate, as a right to be claimed under international law. We do not sanction or invite the exercise of asylum in those countries where it actually exists as a usage, but in such cases we recognize and admit its existence, and should circumstances bring about the uninvited resort of a political refugee for shelter to a consulate or legation of the United States, we should expect equal toleration and privilege in this regard with that allowed by such local usage to any other consulate or legation. . . . Only the reported facts of an actual case arising could enable the department to determine whether an abuse of the local usage had been committed.[2]

In an instruction to Mr. Douglas, United States minister at Port-au-Prince, of March 27, 1890, Mr. Blaine, Secretary of State, says that as to the general question of asylum, "there appears to be no occasion to add to the department's instructions on this subject heretofore."[3]

10. *Chili.*

In 1851 Mr. Webster, whose opinions are always entitled to great deference, instructed the minister of the United States at Santiago that if the Chilian government objected to his sheltering a particular refugee, he must advise such refugee that shelter could no longer be afforded.[4]

[1] Wharton's Int. Law Dig. vol. i, § 104, p. 692.

[2] For. Rel. 1888, p. 938. A copy of this communication was sent to the minister at Port-au-Prince for his guidance.

[3] For. Rel. 1890, p. 523.

[4] Wharton's Int. Law Dig. vol. i, § 104.

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During an insurrection in Valparaiso in 1859, Mr. Trevitt, consul of the United States, undertook to grant asylum in his house to certain political refugees. His house was subsequently attacked by Chilian soldiery, the refugees were taken out, and his *exequatur* was revoked by the Chilian government. Mr. Bigler, minister of the United States in Chili, when reporting these facts, stated that the English consul at Talcahuano had lately given asylum to political refugees and had not been molested, and that such a practice on the part of consuls was "almost generally admitted in the Pacific republics" — in none more frequently than in Chili. Mr. Cass, then Secretary of State, replied that such a usage, taken in connection with the facts stated in regard to the English consul, "would go far to induce" the government of the United States "to require the restoration of Mr. Trevitt's *exequatur*." [1]

During the summer of 1891, while the civil war growing out of the dispute between President Balmaceda and the Chilian Congress was raging, Mr. Egan, minister of the United States at Santiago, afforded asylum to Señors Augustin Edwards and Eduardo Matte, prominent Congressionalists, on the ground, as he stated, that there was reason to apprehend that their lives were in danger. Subsequently Señor Edwards was given a safe conduct and went to Callao, leaving Señor Matte in the legation. A few days later an unofficial intimation was conveyed to Mr. Egan through the dean of the diplomatic corps that the President was much annoyed at the granting of asylum to Congressionalists, and that if they did not leave immediately the legations might be searched, that of the United States being particularly mentioned. On hearing of this threat, Mr. Egan called at the ministry of foreign relations and stated that, while he was prepared to discuss the question of asylum in a friendly spirit, his legation could not be searched but by force, and that he would himself shoot the first man who attempted to enter it

[1] Wharton's Int. Law Dig. vol. i, § 104, p. 676. It seems that the *exequatur* was not restored. Mr. Cass took the ground that violent entrance into a consul's house by soldiers and misconduct therein constituted an international wrong for which redress could be demanded.

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for that purpose. On the following day he received from the President an assurance that there was no intention to search any of the legations, "and above all that of the United States." [1]

On the 21st of August the army of Balmaceda was routed at Viña del Mar; and the excitement and confusion which that event occasioned in Santiago culminated after the dispersion of his forces at Placillas on the 28th. His resignation on the 29th was followed by the demoralization of the military and police forces, and the houses of some of his prominent partisans were attacked. Towards evening, however, order was restored and all danger of further trouble seemed to vanish. Meanwhile many persons had sought refuge in the houses of the foreign ministers. The American legation received eighty and the Spanish legation about the same number. The Brazilian legation received eight; the French, five; the Uruguayan, several; the German, two; the English, one, perhaps involuntarily.[2] Balmaceda took refuge in the Argentine legation. On the subsidence of the first excitement, many of the refugees left the legations, some seeking concealment elsewhere and others giving bond to appear before the tribunals. Such was the course pursued by the refugees in the Brazilian and French legations. The refugee in the English legation went out immediately to his own house, promising to remain there. Balmaceda committed suicide in the Argentine legation on the 19th of September. One refugee, General Velasquez, ex-minister of war, remained in the German legation, but, encouraged by the German minister, he proposed to give himself up as soon as he had sufficiently recovered from the effects of an accident from which he was suffering. In no instance was safe conduct granted.

[1] House Ex. Doc. 91, 52d Cong. 1 sess. p. 64.

[2] In a despatch of August 31, Mr. Egan says that "the only legation which closed its doors and denied asylum was that of England, which refused to admit a single person." In a telegram of September 27 he states that two persons entered the British legation. In a despatch of September 29, he states that "one or two" got in "across the roof" of a neighboring house that was being searched. Subsequently he states that there was one. But the original statement is doubtless correct, in so far as it represents the policy of the British legation.

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No trouble occurred till the 22d of September, when the government, alleging that the refugees and their friends were abusing the privilege of asylum, began to police the American and the Spanish legation. At that time there were nineteen refugees in the former and five in the latter; and on the first three days of the surveillance many persons were interfered with in entering or in leaving the buildings. Mr. Egan protested against the course of the government, contending that its action was without precedent and violative of the rights of the legation, while Señor Matta, the minister for foreign affairs, replied in a manner not calculated to allay irritation. In view of what has been shown to have been the practice in cases of asylum, to say nothing of the opinions of publicists on the subject, the policing of a minister's domicile, when it is used as a shelter for refugees, does not present a ground for complaint. On the other hand, any excesses that may be committed in the enforcement of such a measure, may form a subject for representation with a view to their correction. Mr. Egan not only protested against particular acts which he regarded as unwarrantable, but also against the surveillance itself. Señor Matta declined to consider the protests even against particular acts as a subject for discussion. Nevertheless, after September 25 the strictness of the surveillance was relaxed, though for several days in the latter part of December it was again closely enforced, especially about the Spanish legation.

On September 29 the number of refugees in the American legation had been reduced to fifteen, one of whom not long afterward went out on bond. On January 9, 1892, Mr. Egan escorted two refugees to Valparaiso and put them on board the United States man-of-war *Yorktown*. On the 13th he and the Spanish and Italian ministers disposed of seven refugees in the same manner — five from the American and two from the Spanish legation. These were all that remained. What had become of the rest does not appear, though the correspondent of the *Herald*, in a despatch from Valparaiso of January 13, stated that one of the nine who were apparently in the American legation at the opening of the year had determined to stay in Chili "and

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fight his case out in the courts." The refugees were transported on the *Yorktown* to Callao, Señor Pereira, who had succeeded Señor Matta in the foreign office, refusing to guarantee their security on private vessels calling at Chilian ports; and he expressed displeasure at the minister's accompanying them, apparently being averse to the display of any sign of diplomatic authority in the matter. With the departure of the refugees, the police were removed from about the diplomatic residences.

In discussing the question of safe-conducts, Mr. Egan and Señor Matta set forth their views as to the legal foundations and limitations of asylum. They both accepted the extraterritoriality of a minister's domicile, but while Señor Matta deduced from that notion merely the right to grant asylum, Mr. Egan pushed it further. Señor Matta argued that safe-conducts might have been and might be given, not in virtue of any right on the part of a legation to demand them, but "of the courtesy, convenience and will" of the government, and with due consideration for its own laws and interests; and he maintained that safe-conducts could not be granted for men who, as was the case with the refugees in question, had been submitted to the tribunals. Mr. Egan replied that his house was "an integral part of the United States," and that "without the will and permission" of that government, Chili "could not consider" as subject to her "judicial action" persons "who, from every point of view," were "beyond its jurisdiction"; and he added that as Señor Matta had recognized that safe-conducts had been and might be given "as acts of courtesy and at the spontaneous will of the government," he could not be surprised if the United States should "interpret as an act of but slight courtesy and consideration" the refusal of the Chilian government now to grant them "in accordance with the respect due to the invariable practice and international policy of Chili."

Mr. Egan's assertion of the privilege of extraterritoriality was obviously too broad. If the refugees had actually been within the territory of the United States, they would still have been subject to the judicial action of Chili, for the escape of an offender to a foreign country does not affect the right to make

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charges, issue warrants and formulate complaints against him; and he may be tried *par contumace* without let or hindrance from any quarter. The trial and conviction of General Boulanger by the Senate of France while he was a fugitive in England are still fresh in the public mind.

Moreover, the precedents cited by Mr. Egan to show the "invariable practice and international policy" of Chili were not fortunate. The first was the instructions given to the Chilian minister at Lima on July 9, 1866, to the effect that the legation might "concede asylum to political refugees for the time necessary for them to leave the country," and that "the diplomatic agent should put himself in accord with the minister of foreign affairs . . . in order to send the refugees to a foreign country under the necessary guarantees." While this is far from saying that safe-conducts may be demanded as of right, Mr. Egan was in error as to the circumstances under which the instructions were given and employed, since he states that as the "result of the negotiations on that occasion, the refugees in the several legations were permitted to go out of the country." The instructions were given in reference to the discussion which was to take place at Lima, in consequence of the concession of asylum by the French legation to certain refugees, in 1865. As has been seen, the discussion took place in January, 1867, and the denunciation of the practice of asylum by the Peruvian government, the acquiescent attitude of the diplomatic corps and the express repudiation of the practice by the United States, render the occasion conspicuous for the denial of any legal right to protect political offenders.[1] The only other case cited by Mr. Egan as a precedent was the vote cast by the Chilian delegate in the Montevideo conference of 1888 in favor of a resolution to include in a proposed treaty of international penal law a clause establishing the right to grant asylum to political offenders, as well as the right to require safe-conducts. The proceedings of the conference show that the resolution was based on the assumption of the extraterritoriality of a minister's domicile, and for that reason followed the analogies of extradition; that it was

[1] *Cf.* this QUARTERLY of March, 1892, pp. 28–37

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not adopted as a declaration of subsisting law, but that it was recommended as a means of avoiding difficulties, by making that a matter of duty which had formerly been a matter of courtesy.[1] The treaty was subsequently brought before the International American Conference in Washington, and the committee to which it was referred recommended that it be adopted by the Latin American nations. Mr. Alfonso, delegate from Chili, opposed the recommendation on the ground that his government had rejected the treaty, and he voted against the recommendation subsequently adopted that the Latin American nations "study" it.

The historical aspects of diplomatic asylum having been disclosed, I shall conclude this review with an exposition of legal principles and of the opinions of publicists, and with a brief examination of the subject of asylum in vessels.

JOHN BASSETT MOORE.

[1] Actas de las Sesiones, Buenos Ayres, 1889, pp. 164–166.

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THE PRESENT STATE OF THE IMMIGRATION QUESTION.

THE disorder which occurred at New Orleans in March, 1891, was like an alarm-bell, rousing every one to the danger of the possible growth of a large foreign class in this country, and since then the press has teemed with discussions of the social problem thus thrust into prominence. The numerous views that have appeared have differed widely, and it seems that public opinion on the subject is still very unsettled. This is unfortunate. Legislation is probably imminent, since public sentiment demands it; but from a government whose characteristic is to follow public opinion rather than lead it, legislation is likely to be unsatisfactory so long as public opinion remains ill-defined. Under these circumstances it is interesting to review the results of all this discussion, and to see the present state of the immigration question.[1]

The danger which threatens is the growth of a large foreign element in our population whose habits of thought and behavior are radically different from those which the founders of the nation hoped to establish here. And in this sense "foreign" does not mean simply "born out of the United States," though the class referred to is mainly kept up by immigration. Among the immigrants are many persons who come here with a temporary object; for these our country is only a resting-place or a field to be harvested. There are others who come without a definite object of any sort. Untrained in our law and custom and often without occupation, such persons are unfit to be adopted by the community and unprepared to contribute to its welfare. The foreign class thus created is active

[1] In Professor Mayo-Smith's work, Emigration and Immigration (1890), many of the following points are treated far more fully than it is possible to treat them in this essay. But he discusses causes rather than remedies, and some changes have taken place in the two years that have elapsed since the book was published.

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for harm, and the larger it grows the more inconvenient it will become.

The plans that have been suggested for averting this danger may be classed according to the three theories on which they are based. One proposes to prohibit immigration absolutely; another aims merely at restriction of the movement; while the third would raise up no obstacle to the free admission of the immigrants, trusting that time and a more vigorous exercise of our influence will at last assimilate them. In discussing these plans, the advocates of restriction have proved the most numerous and seem to have the best of the argument.

It has been clearly shown that the economic gain from immigration as a whole outweighs the evil that is occasioned by its bad element. A sweeping measure prohibiting the entire movement would cause more injury than it would avert. It would have stunted the country in the past, and would do the same to-day; whether such far-reaching action will be needed in the future, depends largely on the steps that are taken now. In fact the complete exclusion of immigration has not been seriously urged since the popular excitement following the affair at New Orleans died away. On the other hand it is visionary to hope that all the persons who are swarming across the ocean can be assimilated. Experience plainly shows that many of them are quite indifferent to the influences that surround them, and that others, worse still, are wholly incapable of assimilation either through lapse of time or through association. The policy of leaving immigration unchecked has found its support only among theorists, and in those undeveloped regions which conceive that their chief interest is in population. Thus the two extremes, Know-nothingism and *laissez faire*, are each regarded by the majority of thinkers as unsatisfactory; and it is believed that the action called for is neither to bar out all nor to admit all, but rather to take a middle course and restrict immigration by some discriminating measure. One result of the discussion thus has been to define the limits of the problem. The question is admitted to be: What is the best test by which to try the immigrant? And it is from this point that the important diversity of opinion begins.

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A glance at the main facts of immigration should precede a review of the different plans proposed for restricting it. The best sources of information are the official records which date from 1820, and which have been very minute. They afford a mass of statistics from which the following facts are derived.[1]

Since 1820 immigration has brought over sixteen millions of people to this country; and it is estimated by good authority that the survivors and descendants of these persons number over twenty-seven millions to-day. As the whole increase of population since 1820, both natural and by immigration, has been fifty millions, the enormous proportionate influence of immigration is at once seen and its importance is demonstrated. Until the war, this stream had its source for the most part in Germany, Ireland and Great Britain. Having grown to be considerable about the year 1830, it continued to increase rapidly and quite uniformly. As it was mainly composed of men and women in the most vigorous and productive time of life, and as it found a wide new territory to be opened up, it exerted an immense influence in the material development of the country. The immigrants, being related in race or language to the inhabitants already in occupation, were easily assimilated into the nation. And it is unquestionable that the early immigration has been one of the prominent factors in the prosperity of the United States.

During the years of the war the foreign influx was somewhat interrupted, though it never ceased; when quiet was restored it revived, but underwent a marked change in characteristics. In the first place the rate of increase was greatly accelerated, so that over one-half of all recorded immigration has taken place during the latter period. This increase in quantity is evidently due to the cheapening and shortening of the journey from Europe to America, and a deterioration in quality is another natural consequence of the same fact. It is therefore no surprise to learn from the government reports that the percentage of unskilled laborers among the immigrants

[1] These statistics have been very fully employed by Professor Mayo-Smith in his book already referred to.

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has increased at a corresponding rate. Under the earlier conditions of ocean travel the Atlantic voyage was a formidable undertaking. To surmount this difficulty energy and character were demanded, and immigration was restricted by natural causes which kept out the weak and the worthless. Some strength of purpose was then required in the immigrant, while now nothing is needed but discontent with his lot at home and the few dollars that procure a passage. When the opportunity was dearly bought, it was more likely to be appreciated and improved; while now swarms of miserable people crowd blindly into this country without plans or purpose, and when officially questioned can name as their destination only the port of landing.

A third characteristic of the new immigration, and one which is more noticeable than the increase in quantity or the deterioration in quality, is the ethnic change that is rapidly taking place. The current has not gained so much from the original sources, but it has been swollen by the addition of new elements. Austria-Hungary, Russia, Poland and Italy were scarcely represented twenty years ago, but since then they have played a more and more prominent part in the movement, and to-day they are contributing one-third of the half-million foreigners who yearly enter the country as immigrants.

Finally it should be remarked that all three of the above tendencies appear stronger in the statistics of each succeeding year.

Legislation on this subject began with the Passengers Acts of 1819 and 1855, which simply aimed to protect the immigrant from bad treatment at sea, but it was not until 1882 that a restrictive measure was passed. At that time the condition of immigration affairs at the port of New York was very unsatisfactory. Four-fifths of all immigration comes through New York, and consequently the burden on the hospitals and almshouses of that city had early become oppressive. To meet this, the state legislature passed an act requiring ship-owners to give a bond of indemnity for each immigrant that was landed. But this measure proved insufficient, and as the victimizing of raw immigrants had grown to be a flagrant disgrace, the state, in

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1847, passed a second act, which established the Board of Emigration Commissioners to take charge of the whole matter, and imposed a head-tax of one dollar on each immigrant, to meet the expenses of the board. These commissioners secured Castle Garden as a landing-place where the new arrivals might be protected, established the hospital on Ward's Island, and made every effort to assist and regulate the movement, which there was then no thought of restricting. In 1876 the head-tax was declared unconstitutional by the Supreme Court of the United States,[1] and the board was left dependent on annual appropriations from the treasury of their state. Then followed a series of applications to Congress, which finally led to the Immigration Act of 1882.

This first restrictive measure specified a class of immigrants who should not be allowed to land, and in order to defray the expense of regulating immigration, it put a duty of fifty cents on each alien passenger. The proscribed class comprised idiots, lunatics, persons likely to become a public charge, and convicts, except those convicted of political offences. The mode prescribed for enforcing the act was a weak feature of the measure. The supervision of immigration was intrusted to the Secretary of the Treasury, who was to make contracts with such state commissioners as might be designated by the governor of any state. The state commissioners were then to perform the duties of inspection and report the results to the collector of the port, who was to prevent the landing of such immigrants as he decided to be within the excluding clause of the act. Except in the case of the convicts, who were to be sent back at the expense of the owner of the ships that brought them, nothing was said as to what should be done with the excluded immigrants, or who should pay for doing it. Thus the efficiency of the law was crippled by the division of duties and powers between state and national officers, and by the incompleteness of the regulations prescribed. During the six years that followed its enactment, about six thousand persons were sent back out of ten and one-quarter millions.

[1] Henderson *vs.* Mayor of New York, 97 U. S. 259.

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This act was followed by the Alien Contract-Labor Law of 1885, which was designed to protect the American labor market. This measure made it unlawful to assist or procure the immigration of any alien under contract to perform labor in the United States, or knowingly to transport any such alien. It also declared void all contracts of labor made by aliens previous to their landing. The law excepted actors, artists, lecturers, singers, domestic servants and workmen skilled in new industries; and it contained, moreover, a clause permitting any one to assist the immigration of a relative or a "personal friend," —a loop-hole which, combined with the extreme difficulty of procuring evidence of contracts, rendered the measure of little practical effect. This act was amended, but without material change, in 1887 and in 1888.

The subject was next treated by the Chinese Exclusion Bill, which was passed in 1888 under circumstances that might have furnished a *casus belli* to a more energetic nation than China. This is still in effect and absolutely prohibits the immigration of Chinese laborers either skilled or unskilled.

Finally the latest legislation has been reached in the Immigration Act of March, 1891, which re-enacts, with some changes, the first Immigration Act and the Alien Contract-Labor Law. The addition to the substance of those two measures is slight. Polygamists and persons suffering from a loathsome or dangerous contagious disease are added to the classes already excluded by the law of 1882; while advertisements published abroad to offer employment, or to solicit passage by transportation lines, are declared to be punishable as violations of the Alien Contract-Labor Law. The exclusion of Mormons amounts to little, and of course the diseased immigrants were practically barred by existing sanitary regulations. As to the prohibition of advertisements, that puts a stop to a pernicious practice and is therefore good in its results, although it is difficult to see the relation of this matter to the Alien Contract-Labor Law. That rather feeble measure is further modified by striking out its "personal friend" clause.

It is in the mode of executing the law that a distinct advance

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is made by this act of 1891. The matter is properly made a subject of federal administration. The office of Superintendent of Immigration is created and made a part of the Treasury Department, while the duty of inspection is no longer left to state officials acting under contracts, but is given to inspection officers of the United States; from their decisions an appeal lies to the superintendent and finally to the Secretary of the Treasury. The responsibility of ship-owners is also made definite and their co-operation is ensured. When a vessel arrives, the master or agent is required by this law to submit to the government officers a detailed report of immigrant passengers, who must then be inspected by the officials. Rejected immigrants are in all cases to be sent back at the expense of the ship-owners, in the same vessel that brought them, when practicable, and it is made punishable to permit the landing of an unlawful immigrant either intentionally or through neglect.

From this review of past legislation it appears that with the exception of the anti-Chinese bill, immigration has been hitherto practically unchecked; for the exclusion of persons mentally or morally or physically unsound is rather a police measure than an interference with the natural migration of men. It is now, however, quite generally held that self-preservation requires the United States to restrain the foreign tide that is flooding it. A growing public sentiment demands that immigration should be substantially reduced.

Though there is much variety in the tests which have been suggested as checks on immigration, there has been a general agreement that, whatever test is adopted, the method of its application should differ entirely from that now employed. It is pointed out by every one who has considered the subject that the proper place to stop the immigrants is at the beginning of their journey. So soon as the examination takes place on the other side of the ocean, nearly all the inducement to neglect or violation of the law is done away with; whereas the inspector who rejects an immigrant at the landing in New York must contend against not only the interest of the immigrant but also that of the steamship company, and perhaps against his own

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feeling of compassion in what without doubt is a very hard case. To solve this problem, it has been proposed that no immigrant shall be allowed to land here unless he is the bearer of a United States consular certificate, obtained in the country from which he comes. If the legal qualification for intending immigrants is made simple and precise, — as it is very necessary that it should be, — the plan of consular certificates will be entirely feasible. On applying to the nearest consul for such a certificate, the immigrant would bring some recommendation from the authorities under whom he last lived. This might be receivable in any form, much like the character of a servant, and if it were satisfactory, in the discretion of the consul, the candidate would next be examined briefly by the legal test and, when passed, would receive his certificate of fitness. On reaching America, the immigrant would present his certificate, be re-examined by the inspectors, for security against false identity, and so would finally be admitted. It is difficult to say to whom is due the original suggestion of this practicable and efficient plan; for its merit soon led to general endorsement.[1]

To adopt a test for the immigrants is a much more difficult matter, and so there is less unanimity in pointing out the artificial bar that, by excluding the worst elements in immigration, shall correct alike the tendency to increase and the tendency to deteriorate. The difficulty lies in knowing what are the worst elements; for the whole question of the immigrant's influence involves principles of sociology as yet imperfectly understood. There are some exact figures bearing on this point, and from these can be drawn certain general conclusions, which will be accurate enough for use in comparing the various suggestions. The following tables of percentages, calculated from the government records, show the relative age, sex and social condition of immigrants.

AGE.

Under fifteen years	21.4	per cent.
Between fifteen and forty	68.1	" "
Over forty years	10.5	" "

[1] It is accepted by Professor Mayo-Smith, Emigration and Immigration, p. 281.

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SEX.		
Males	61.1	per cent.
Females	38.9	" "
OCCUPATION.		
Professional	.5	per cent.
Skilled laborers	10.3	" "
Unskilled laborers	39.6	" "
Without occupation[1]	47.4	" "
Not stated	2.2	" "

On economic grounds, then, the influence of the immigrant seems to be good. About one-half of the aliens who come here are workers; for the proportion of women, children and old people is small. But of these workers four-fifths are unskilled laborers. Thus of the two agents in production, capital and labor, the immigrant furnishes almost wholly labor; and of the two elements of labor, skill and muscle, he furnishes chiefly muscle. Although his economic influence is good, yet that which he contributes to the productive power of the community is something less urgently needed now than during our first century.

On social grounds his influence is very complex; but apparently its first and most direct effect is bad. He adds to the class in which disease, mortality, crime, pauperism and ignorance are most prevalent, and therefore, even if he were as civilized as the American of the same social position, his influence would nevertheless tend to lower the social average of the community. But besides unduly augmenting this class of society, he furthermore, as is well known, works demoralization within it, by competition from a lower plane of living. It would be hard to exaggerate the disastrous effect which must inevitably follow such competition. Employers will make the best bargain they can, and the more civilized workingman is forced toward the lower standard. Here is the most serious aspect of immigration. The condition of the working classes, — their consequent content or discontent and its results, — forms a very important social question of our day. Lastly, the above figures

[1] Most of those without occupation were women or children.

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show that about one-twentieth of the immigrants are adult males without occupation, — at best a dead weight on society, and perhaps actively hostile to it. This residuum is especially injurious from its point of attack. Bad immigration gravitates inevitably to the slums, and the slums are a threatening feature of the great cities, just as the rapid growth of cities is itself a doubtful feature of modern society.

Politically, the immigrant puts a heavy strain on democratic institutions, by rapidly adding to the electorate a great mass of people who are almost wholly untrained in self-government. The presence of the foreign vote, solid, interested and sometimes mercenary, has also a bad indirect influence. Politicians are tempted to bid for its support by making legislation yield to its prejudices, to gain the support of its depraved element by outright bribery, and to augment this depraved element by neglecting or wilfully violating the laws that control naturalization. The political effect of the movement may be studied in municipal governments, where, because of the well-known tendency of immigrants to crowd in cities, its first fruits have appeared. But of course the bulk of municipal evils are not strictly chargeable to immigration.

Such in outline is the problem presented by the phenomenon of immigration. Among the solutions offered, the introduction of an educational qualification for admission to the country has been well advocated. The test of illiteracy, requiring in every immigrant the ability to read and write his own language, would shut off that element of immigration which is economically the least beneficial, and socially and politically the most injurious. For such a qualification would bar no professional men and few skilled laborers; while politically it is a fair test of intelligence, and socially a fair test of the standard of living. It has been estimated that the actual effect of the test for illiteracy would be to exclude seventy-five per cent of the Poles, Italians and Hungarians, three per cent of the Irish, two per cent of the English and one-tenth of one per cent of the Germans; but this is conjecture.

A property qualification has been suggested; but this, being

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quite inconsistent with our position in regard to the franchise, is so open to the attacks of demagogism as to be practically unattainable, even if desirable. Such a test, though specifying but a small amount of property, would be much more severe than the situation demands; it is seldom the rich or prosperous who go into exile. And the test would be more severe than just, since poverty is as often the result of hard surroundings as of inherent worthlessness.

It has been proposed to extend to other nations the policy adopted with reference to the Chinese, making race the test of fitness; and in favor of this it is urged that the bulk of undesirable immigration comes from certain known countries, — an assertion which the statistics support. A race restriction, drawn so as to correct the ethnic changes in the new immigration, would have a good effect. This is unquestioned; but it is possible to obtain the effect by some less clumsy and offensive law than the indiscriminate exclusion of certain races as races, — a measure which no party manager could omit to oppose at home, and which would react to our detriment through retaliatory legislation abroad. That certain peoples are incapable of self-government, and that it is desirable to keep the race pure, have also been arguments for this test. But to show certain peoples untrained in self-government is not to prove them incapable of learning it; and as to keeping the race pure, we are already a well-mixed race today, whether or not it be true that mixed races are the strongest. Lastly, a race qualification, unlike that of education or property, would be objectionable on the high ground of repugnance to the generous theory that America is a haven for the oppressed of all mankind. For such a law would be as inexorable as fate, barring without recourse those to whom it applied, although they might be the most deserving of unfortunate men.

Ability to speak English, which has been suggested as a qualification, would be in effect a moderate race test. It would be almost as offensive as the race test proper, although less directly so, and hence it is open to the same general objections. Moreover, though less absolute in theory, it would be more so in practice; as it would arbitrarily exclude four-fifths of all immi-

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gration. That English must be the one language of the Union, no one will be disposed to deny; but this can be insured without requiring all new-comers to know the language on their arrival. However, as the presence of the existing foreign vote puts such a law almost out of the question, it is needless to discuss its narrowness.

The test of illiteracy seems, then, to be the best solution offered. It has long had the most thoughtful support, and its advocates are now becoming the most numerous. It is eminently practical, because the very simplest in application, and also because its enactment would be least liable to the attack of interested opposition. It is eminently sound in its fundamental principle. And it makes the least inroad on the doctrine that every individual is a free citizen of the world, — an abstract theory for whose sake we are sacrificing the great advantage of our elbow-room and risking our national character, with a generosity at which foreign critics have long wondered.

JOHN HAWKS NOBLE.

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TITHES IN ENGLAND AND WALES.

THE prominence of the tithes question in England and Wales at the present day is an incident of the general upheaval in the relations between the comfortable and the hard-pressed classes of society. This social unrest expresses itself in denial of the right of private property. In the course of the general assault on this right, particular attention is paid to those forms of property which present exceptional features. If a species be found which is possessed by but a single member of any given community, which consists essentially in a tax to which the other members have to contribute and which is more or less connected with a special form of religious belief, such a species presents an irresistible temptation to the assailants of the established order. Here, more than in respect to property in general, possession and prescription are no longer deemed sufficient to establish a right, and a stricter investigation of the claim is demanded. In 1617 Selden incurred the serious displeasure of the Star Chamber for holding, or being supposed to hold, that there might be a doubt as to whether tithes were due *de jure divino;* to-day many religionists consider that it is the payment of tithes which is really contrary to an enlightened Christianity.

I.

Etymologically the "tithe" is the "tenth." In a fiscal sense it may be defined as "a tenth portion of income or produce, paid to authority." It has never been limited in signification to an ecclesiastical or religious impost. As a form of taxation or tribute, both civil and religious, it appears in history from the earliest times and among all developed peoples. There are abundant evidences of its existence among the Carthaginians, the Persians, the Greeks and the Romans, and the Old Testa-

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ment reveals how important a part it played in the economy of the Hebrews from the days of Melchisedek[1] to the Christian era.

As in the first fervor of Christianity private property disappeared,[2] the payment of tithes was necessarily suspended; but community of goods being practically impossible in a very widely scattered body, the tithe tax after a while reappeared in the form of an offertory under the control of the bishop, the proceeds of which were divided between the maintenance of public worship, the support of the clergy and provision for the poor. The formation of parishes probably commenced in the fourth century, and when Christianity became the religion of the state, the tithe system, with which the whole civilized world was already familiar, was reorganized in the interest of a state clergy, with this important difference, however, from the practice of modern times, that the payment of tithes was voluntary. Hallam observes:

> The slow and gradual manner in which parochial churches became independent appears to be of itself a sufficient answer to those who ascribe a great antiquity to the universal payment of tithes. There are, however, more direct proofs that this species of ecclesiastical property was acquired not only by degrees, but with considerable opposition. We find the payment of tithes first enjoined by the canons of a provincial council in France, near the end of the sixth century. From the ninth to the end of the twelfth, or even later, it is continually enforced by similar authority. Father Paul remarks that most of the sermons preached about the eighth century inculcate this as a duty, and even seem to place the summit of Christian perfection in its performance. This reluctant submission of the people to a general and permanent tribute is perfectly consistent with the eagerness displayed by them in accumulating voluntary donations upon the church.[3]

In the course of time this voluntary payment of tithes gradually hardened into a legal obligation; and at length the state appeared upon the scene, to establish and enforce the claim — a change which was formally effected on the continent by one of the capitularies of Charlemagne, in the year 789,

[1] Genesis xiv, 18–20. [2] Acts iv, 32.
[3] Europe during the Middle Ages, edit. 1868, pp. 334–5.

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and in England by a canon of the Council of Chelsea in 785. Under the new system was still preserved the division of tithes into three parts, for the respective use of the bishops and clergy, the fabric and the poor.[1] Still, too, as in earlier and in later times, the lay ownership of tithes was not unknown, as is evident from a protest and decree at the third Lateran Council, in 1179. But in the course of ages, tithes had ceased to be simply the tenth part of a man's income, and had become the tenth part of income derived from those things which "yield a yearly increase by the act of God." Irregularities having arisen from what was called the "arbitrary consecration of tithes," *i.e.* the selection by the tithe-payer of the particular church or monastery to which they were paid, Innocent III, by a decretal epistle addressed to the Archbishop of Canterbury, in 1200, ordered the payment to be made to the parson (*persona ecclesiæ*) of the parish in which the tithes arose. "This epistle decretall," says Coke, "bound not the subjects of this realm, but the same being just and reasonable they allowed the same, and so became *lex terræ*."[2]

The crown is exempt from the payment of tithes, by virtue of its prerogative; "as being a person mixt,"[3] *i.e.* partly civil and partly ecclesiastical, as head on earth of the Church of England,[4] it would also come within the scope of the principle: *Ecclesia decimas non solvit ecclesiæ.* But this principle, it may be observed, was anciently of by no means universal application; for the monastic orders generally paid tithes in respect of their lands, until a decree of Pope Pascal II about the year 1100; and the exemption given by this decree was in part revoked half a century later by Adrian IV, who limited its application to the Templars, the Hospitallers and the Cistercians. To these Innocent III added the Præmonstratenses, and hence these four bodies became known as "the privileged orders."

[1] *Vide* Bæda, Ecclesiastical History, I, 27. [2] 2 Institutes, 641.

[3] Jura Ecclesiastica; by a Barrister of the Middle Temple (1749); vol. ii, p. 507.

[4] "Ecclesiæ et cleri Anglicani singularem protectorem et unicum et supremum Dominum; et quantum per legem Christi licet, etiam supremum caput ipsius Majestatem agnoscimus." Clause submitted by Archbishop Wareham to the Upper House of Convocation, and agreed to by them, Feb. 10, 1531.

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II.

The first mention of tithes in the formal statutory law of England occurs in the act *Circumspecte agatis*, 13 Edward I, Statute 4 (1285). It is there prescribed that the king's secular judges are not to interfere, "si rector petat versus parochianos, oblationes et decimas debitas et consuetas." By the time of Edward I the ordinary payment of tithes as known to modern times was firmly established, and through his legislation the law of the land was for the most part put upon a fixed basis. It will, therefore, be convenient to specify, before going further, the principal legal incidents and characteristics of property in tithes. Tithes, then, are incorporeal hereditaments, and are considered to be invariably of freehold nature, even when they chance to be charged upon lands of copyhold tenure; they may be entailed, *i.e.* limited in use to a man and the heirs of his body only; they can be leased, and are subject to the rights of a wife in respect to dower or the curtesy of England; they are not considered to issue *out of* land, like rent, but to be *collateral to it*, and neither the owner of the land nor the occupier is personally liable for them. The remedy of the tithe-owner is against the chattels and other property upon the land at the time when the tithe was due. As houses, quarries and mines yield no yearly increase by the act of God, they are not tithable. Things *ferœ naturæ*, such as game and fish, are not tithable, nor are special tame animals kept for pleasure. It has been held that tithes are payable twice during the year in respect of a double crop or produce, *e.g.* on the aftermath of grass or clover, on garden ground producing different crops during the year, or in respect of domestic creatures which bring forth twice in the year, as hens and pigeons.

As regards their different kinds, tithes were divided into (1) predial, or such as are directly produced from the earth, as grain, herbs and fruit; (2) mixed, or such as arise from things nourished by the earth, *e.g.* calves, lambs, chickens, milk and eggs; and (3) personal, or such as arise from the industry of

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man, but these latter are obsolete.[1] Tithes are also (1) great, *i.e.* of corn, hay, wood, beans, peas, "together with the grain of all other pulse or leguminous plants" (great tithes are always predial, and almost always rectorial); and (2) small, *i.e.* of clover, tares, grasses cut without being made into hay, potatoes, turnips and hops. Every mixed tithe is a small tithe, and small tithes are vicarial. If it be asked: What is the essential characteristic of a small tithe? I can only answer in the words of a very learned writer on the subject: "It is not easy to discover in many cases any intelligible principle upon which to decide what is a great tithe and what is a small tithe."[2] Tithes, again, are (1) ordinary, and (2) extraordinary, *i.e.* those due in respect of hop grounds, orchards, fruit plantations and market gardens.

The position of "the privileged orders" in being tithe-free naturally suggested to others the expedient of purchasing a like exemption; and their success in the attempt as naturally produced the act 2 Henry IV, c. 4 (1400), which affords an interesting instance of the firmness with which the Plantagenet kings restrained papal encroachments.

> Forasmuch [says the statute] as our lord the King, upon grievous complaint to him made in this Parliament, hath perceived that the religious men of the order of Cisteaux in the realm of England have purchased certain bulls to be quit and discharged to pay the tithes of their lands . . . our lord the King, by the advice and assent [*etc.*] . . . hath ordained that the religious persons of the order of Cisteaux shall stand in the estate that they were before the time of such bulls purchased;

i.e. the bulls are to be null and void. And, if any others, "religious and seculars of what estate or condition they be," should venture "to put the said bulls into execution or from henceforth do purchase other such bulls," they were liable to the terrible writ of *præmunire*.

The period of the Reformation is a most important epoch in

[1] "The only two species of personal tithes now payable are those for mills and fish." Shelford, The Acts for the Commutation of Tithes (1848), p. 50.

[2] *Ibid.* p. 51.

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the history of tithes. In order to understand the change that then took place in many cases in their ownership, it must be remembered that the incumbent of a parish, the parson, is either a ruler in his own right in it (the *rector*), or is a delegate and representative of some other person or persons (*vicarius*, a vicar). If the former, he is, as of course, entitled to all tithes, great and small, subject to the repair of the chancel of the parish church; if the latter, he is generally only entitled to the small tithes. In the long struggle made by the church in pre-Reformation times to get possession of the larger portion of the real estate of the realm, no feature is perhaps more remarkable than the persistency and success with which the religious houses sought for the right of patronage to ecclesiastical benefices, technically called an advowson. "They begged and bought for masses and obits, and sometimes even for money, all the advowsons within their reach."[1] The bishop, who, as we have seen,[2] had originally a share in the church offertory fund, and in tithes in earlier times, had long ceased to receive any part of them, in consequence of the general endowment of sees from other sources. The tripartite division of tithes for the maintenance of the church fabric, the poor and the incumbent remained; hence it was argued by the religious houses that the incumbent was entitled at the utmost to no more than a third of the proceeds of the benefice; the remaining two-thirds, or more generally three-fourths, the monastic owners of an advowson allotted to themselves, as rectors charged with the maintenance of the fabric, and as being the poor. Some inferior secular priest, thankful for a paltry stipend, was put in to perform the duties of an incumbent, as the vicar of a rich monastery; and by this arrangement, it will be observed, the really poor, to whom a third of the tithes had by the most venerable Christian usage belonged, — "*decimas quæ sunt pauperum Dei*," — were almost utterly defrauded. Doubtless the greater monasteries expended much in miscellaneous charity; but this is always a dubious blessing, inasmuch as it tends to pauperize the neighborhood in which it is exercised. And moreover,

[1] Stephens, Laws relating to the Clergy (1848), vol. i, p. 37. [2] *Supra*, p. 246.

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being almost always exercised with a view to the advancement of the influence of the givers, it partook of the nature of bribery and corruption, and frequently ruined its recipients by inducing them to enter into rash conflicts with the secular arm. The statement that the suppression of the monasteries in England produced pauperism and poor-laws has by frequent repetition assumed in many minds the guise of a truism. In fact, however, the mediæval church had failed in her duty towards her poorest members; and the opportunity having passed from her forever, it was reserved for the great statesmen of the era of Elizabeth to revive in the form of a poor-rate the practice of the earlier church, by which a part of the general offertory was applied to the relief of the destitute.

The change made by the Reformation in the Church of England was to the world at large "a bolt from the blue." Never, perhaps, had the power of the church appeared to be greater or more consolidated than when wielded by the genius of Wolsey. For a hundred years, from 1429 to 1529, the House of Commons had been an assembly whose occasional meetings had become a mere form, and whose members came together, often against their will, merely to register the wishes of their superiors; whilst the presence in the upper house of twenty bishops and twenty-nine mitred abbots and priors, when there were only about twenty-five lay peers, seemed to render the position of the ecclesiastics impregnable. In less than a decade this state of things vanished like a dream. As the bishops and abbots in the time of Edward II had deserted the Templars, so now the abbots were left unaided by the bishops and the secular clergy. The monasteries and abbeys were dissolved and their possessions vested in the crown. The statute 31 Henry VIII, c. 13, after reciting that

> sundry abbots . . . and other ecclesiastical governors . . . enjoyed divers and sundry parsonages appropriate, tithes and portions, and also were acquitted and discharged of the payment of tithes,

enacts that

> as well the King our sovereign lord . . . as every such person and persons which have or hereafter shall have any monasteries . . . or any

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manors . . . which belonged unto the said monasteries . . . shall enjoy the said parsonages appropriate, tithes and portions . . . as freely and in as large and ample manner as the said late abbots . . . enjoyed the same.

Thus, at a stroke, came at least one-third of the tithes of England into lay hands, and the lay rector appears upon the scene. The act, it will be observed, speaks of "parsonages appropriate." An "appropriation" is the technical term in England for the assignment of an advowson to the use (*in proprios usus*) of a religious house, the religious corporation thereupon becoming the "appropriators" or "perpetual parsons of the church." The term "impropriator" is applied to the lay rectors who succeeded the abbots and other spiritual persons in the ownership of the property; and the impropriators, like their predecessors, continued to receive the great tithes and to perform the service of the church by means of a vicar, who received the small tithes.

IV.

It was not the intention of Henry VIII and his statesmen to make any attack upon church property in general; but the unsettled condition of matters ecclesiastical, and the subsequent dissolution of the monasteries having given occasion for various persons to withhold payment of tithes without any reason, two important enactments were passed to put an end to such irregularities. The first of these, statute 27 Henry VIII, c. 20, "For Tithes to be Paid throughout this Realm," recites that divers evil disposed persons, having no respect to their duties to almighty God, have attempted to withhold, either wholly or in part, their tithes and oblation due unto God and holy church, and, "pursuing such their detestable enormities," have attempted to disobey and despise the process and decrees of the ecclesiastical courts of the realm. Wherefore it is ordained by "our sovereign lord the King, being supreme head on earth (under God) of the Church of England," that his subjects pay their tithes according to the ecclesiastical laws and ordinances of the church, and the laudable usages and customs of their

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respective parishes. Offenders were to be "convented before the ordinary" or proper ecclesiastical judge, and to be bound by two justices of the peace to find sufficient surety "to give due obedience." The act was not to extend to London, for which special provision was made. This act was shortly followed by the statute 32 Henry VIII, c. 7, "For the True Payment of Tithes and Offerings," which again enacted that "tithes shall be paid according to the custom of the parish where they be due," and empowered tithe-owners to maintain actions for their recovery in the temporal courts. Lay tithe-owners were thus relieved from a serious dilemma. For lay persons could not sue for their tithes in the ecclesiastical courts, and the matter was not within the purview of the common law. Thus they had had no remedy at common law, and they had been unable to use the remedy given by ecclesiastical law.

In the city of London also, which in general gave enthusiastic support to the policy of Henry VIII, "contention, strife and variance" arose in connection with tithe payment. For this case a special statute, 37 Henry VIII, c. 12, was passed, which embodied a decree regulating tithe payment in the metropolis, drawn up by some of the chief persons in the realm as arbitrators.[1] This judicious document, after regulating the scale of payments, orders that "any strife" in the matter shall be decided by "the mayor of the city . . . by the advice of council." "And if the mayor make not an end thereof within two months after complaint," an appeal lay to the Lord Chancellor of England.

After the death of Henry VIII tithe-payers, again attempting to take advantage of the unsettled state of things, recommenced their "detestable enormities," and so occasioned the statute 2 and 3 Edward VI, c. 13, "An Act for Payment of Tithes," which enacts that the above-quoted legislation of

[1] The arbitrators were the Archbishop of Canterbury (Cranmer), the Lord Chancellor (Wryothesly), the President of the Council (Lord St. John, afterwards Marquess of Winchester), the Lord Privy Seal (Russel), the Lord Great Chamberlain (Edward Seymour, Earl of Hertford), the High Admiral of England (John, Viscount Lisle, afterwards Duke of Northumberland), the Chief Justice of England and the "Chief Baron of his Grace's Exchequer."

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Henry VIII respecting tithes "shall abide and stand in full strength and virtue," and

> that every of the King's subjects shall from henceforth truly and justly, without fraud or guile, divide, set out, yield and pay all manner of their predial tithes in their proper kind as they rise and happen, in such manner and form as hath been of right yielded and paid within forty years next before the making of this act, or of right or custom ought to have been paid.

If tithable produce is carried away ere the tithe be paid or duly arranged for, or if the parson is prevented from properly viewing the severance of his tenth, double value is to be forfeited. Merchants and craftsmen, not being "common day-labourers," shall each "yearly at or before the feast of Easter" pay for "personal tithes the tenth part of his clear gains," less "his charges and expenses, according to his estate." This act was not to extend to "any parish which stands upon the sea-coasts, the commodities and occupying whereof consisteth chiefly in fishing, and have by reason thereof used to satisfy their tithes by fish." In such parishes the fish tithes were to be maintained, "according to the laudable customs."

With these acts tithe legislation was consolidated and the tithe-payer was at length convinced that the recent changes in church and faith were unconnected with his liability to yield and pay the customary amounts.

V.

The great system of inclosure, carried out mainly during the reign of George III, and which has made England into a country of fields, requires notice in connection with the history of tithes; as it shows what property now represents the great tithes, and how they have been valued. A particular private act of Parliament will afford a good illustration of the process. Take for example the law passed in 1793, entitled: "An act for dividing, allotting and inclosing the open fields, ings,[1] marshes and common pastures, and other common and waste lands and

[1] The Anglo-Saxon *ing* signifies a meadow, *e.g.* Dork-*ing*.

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grounds, within the lordship of Barton-on-Humber in the County of Lincoln." The statute declares that the King is lord of the manor; that George Uppleby and Sarah his wife are owners of the rectory impropriate of Barton, which in pre-Reformation times belonged to the mitred abbey of Bardney, "and as such are seized of all the great tithes, growing, arising or renewing in the said lordship, and are also patrons of the vicarage and parish church of Barton aforesaid," and that the Rev. William Uppleby, as vicar of the said vicarage and parish church, is entitled to all the vicarial tithes yearly arising within the lordship and parish. It is then enacted that the commissioners appointed to carry out the act

> are hereby required to allot and appoint unto and for the said George Uppleby and Sarah his wife, as owners of the rectory impropriate of Barton aforesaid, their heirs and assigns . . . such parcels of the open fields and common pastures hereby intended to be divided and inclosed, as shall contain in the whole 900 acres [the situation of which allotments are therein described] which allotments of 900 acres of land shall be in lieu and in full compensation and satisfaction for all the great and impropriate tithes and moduses, dues and payments whatsoever.

The manor of Barton, as is stated in the act, covered about 6000 acres. In compensation, then, for the right to the great tithes arising on this tract, which had been enjoyed by the abbey of Bardney, the lay rectors who had succeeded to this right obtained the absolute ownership of 900 acres of the land. This case of Barton-on-Humber is a fair example of the extensive transmutation of tithe property into landed property which was effected by the Inclosure Acts.

VI.

Payment in kind is in the main unsuitable to developed civilization, and the effort to avoid this feature of the primitive tithe system manifested itself even in mediæval times. Several methods of accomplishing this end were developed. First, there was the *modus decimandi*, commonly called the *modus*. The term is used, according to Coke,

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when hereditaments have been given to the parson and his successors, or an annual certain sum or other profit always, time out of mind, to the parson and his successors, in full satisfaction and discharge of all the tithes in kind in such a place.[1]

By the law of England a *modus*, like every prescription, is supposed to have commenced before the first year of Richard I, 1189.[2] The second mode of exemption from payment in kind is called a "composition real," which differs little from a *modus* except in name. The term is used

where the incumbent, together with his patron and ordinary, agree under their hands and seals, or by fine in the King's court, that such lands shall be freed and discharged of the payment of all manner of tithes forever, paying some annual payment or doing some other thing to the ease, profit or advantage of the parson or vicar to whom the tithes did belong.[3]

Every composition real has been made or is supposed to have been made between the year 1189 and the passing of the act in 1570[4] which put an end to the practice. By the act 2 and 3 William IV, c. 100, evidence showing the payment of a *modus* for thirty years, or the enjoyment of land without payment of "tithes, money or other matter in lieu thereof" for thirty years, is, except in certain cases, to be sufficient proof of the *modus* or of a prescriptive right to exemption from tithe.

It remained for the nineteenth century to make the most sweeping transformation in the system of tithe collection. The beginning of the change was made in Ireland, and the grounds on which it was based are declared in the introduction to the act of 1823.

Various circumstances relating to the agriculture and population of Ireland, and which do not apply to Great Britain, render it peculiarly expedient that for the purpose of further encouraging the industry and enterprise of owners, farmers and occupiers of land, and rendering the incomes arising from tithes there more certain in amount and more easy of collection, and of avoiding controversies respecting the same, provision should be made for the authorizing compositions to be made for tithes in Ireland only, to endure for a time to be limited.[5]

[1] 13 Rep. 40. [2] Shelford, p. 194. [3] Degge, 7th edit. p. 404.
[4] 13 Elizabeth, c. 10. [5] 4 George IV, c. 99.

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Commissioners were appointed accordingly with power to fix the amount of sums to be paid as compositions for tithes. But in the great burst of reform legislation in England in the reign of William IV the principles which had been supposed to be only suitable to Ireland were found to be equally appropriate across St. George's Channel. The result was the famous "Act for the Commutation of Tithes in England and Wales."[1] This act substitutes for tithes a rent charge, originally fixed by the average value of the tithes for the seven years ending Christmas, 1835. The rent charge varies every seven years in accordance with the current prices of wheat, barley and oats, the average price of the three kinds of grain being advertised yearly in January in the *London Gazette*. The Commutation Act insures to the tithe-owner his property by giving him a right of distress when the rent charge is in arrear for twenty-one days, and the right to take possession of the lands charged in case of forty days' arrear. No exemption from tithes is recognized on the ground of religious belief, and the tithe rent charge remains subject to the payment of rates. The Tithe Commutation Act also maintained the principle that property, not the individual, is liable for tithe, by enacting that "nothing herein contained shall be taken to render any person whomsoever personally liable to the payment of any such rent charge."

Various later legislation has resulted in the adjustment of most local and extraordinary features of the tithe system to the general lines of the Commutation Act.[2]

In Ireland a further step has been taken toward the total extinction of tithes. The commutation into rent charge was effected in 1838. At the disestablishment of the Irish church in 1869 the tithe rent charge was vested in the Commissioners of Church Temporalities. Then by an amending act of 1872 the commissioners were authorized to sell any such rent charge to the owner of the land charged, on the basis of twenty-two and one-half years' purchase, with deductions for poor-rates. Upon such a sale the rent charge becomes merged in the land out of which it issued. It need scarcely be observed that the

[1] 6 & 7 William IV, c. 71. [2] *Cf.* 23 & 24 Victoria, c. 93; 49 & 50 Victoria, c. 54.

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simple abolition of tithe rent charges would be equivalent to an annual gift of the amount to the landowners.

The spirit of opposition to the established church has caused of late years in Wales a line of conduct exactly reproducing the "detestable enormities" reprobated by the statute of Henry VIII, above noticed.[1] The nonconformist farmers in some parts of the principality have refused payment of the tithe rent charge, and it has been necessary on various occasions to enforce the levying of distress by the aid of emergency-men and policemen, whilst even the military have had to be held in readiness. In order to relieve existing friction, and at the same time to preserve the rights of the owners of tithe rent charge, the present government brought in a bill, which was passed March 26, 1891,[2] to make better provision for the recovery of tithe rent charge in England and Wales. By this statute, tithe rent charge is made payable by the owner of the lands, and where any sum due is in arrear for not less than three months, the county court may order the recovery of the amount due by distress if the owner is the occupier, and by appointing a receiver of the rents and profits in any other case. Thus a distress on the goods of a tenant, with its accompanying scenes of violence and turmoil, will be avoided for the future. But it may be noticed that this latest act, also, while making tithe rent charge payable by the owner, is careful to preserve the ancient principle that personal liability does not attach for such payment.[3]

Such is a brief sketch of the history of tithes in England and Wales. It is unnecessary to prophesy respecting their future; but if the Church of England were disestablished and disendowed, tithe rent charge in England would probably be treated on the same lines that have been followed in Ireland.

ROBERT BROWN, JR.

[1] *Supra*, p. 251. [2] 54 Victoria, c. 8.

[3] "Nothing in this act shall impose or constitute any personal liability upon any occupier or owner of lands for the payment of any tithe rent charge, or any other sum recoverable or payable under this act." Sec. 2, subsec. 9. *Vide* George P. Leach, The Tithe Acts and the Rules under the Tithe Act, 1891. London, Shaw & Sons, 1891.

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LORIA'S LANDED SYSTEM OF SOCIAL ECONOMY.

I PROPOSE in the following article to present to the American public the social system set forth in the works of the Italian economist, Achille Loria. Although open to criticism on many points, this system seems to me to display a degree of talent and originality that makes it a remarkable contribution to political economy. It is also destined, I think, to exert a far-reaching influence. Its effect on economic thought in Italy is already notable. In offering it to the consideration of the American public, who show so lively an interest in social-economic studies, I believe that I am not only gratifying a just patriotic pride in such a thinker as Loria, but that I am also giving an impulse to scientific research, which delights in the contrast of opinions and in a full examination of novel ideas. Loria's system is likely to be of especial interest to Americans, from the fact that the theories on which it is based have found their chief confirmation in the economic evolution of the United States, which he has carefully analyzed in his recent works.

I. *Fundamental Principles.*

All Loria's works are skilfully co-ordinated to a single idea. He boldly refers all economic phenomena, and even in a general way all social evolution, to one sole cause, namely, agricultural conditions as historically determined by the varying degrees of density of population. His system stands in direct relation to that of the Ricardo-Malthusian school, which hinges on the laws of population and rent; but he diverges from this school in his treatment of these laws in their development and in the social value which he assigns to them, and his conclusions are altogether different. His entire theoretical structure, in fact, is marked by profound originality. The fundamental principles of his theory and their divergence from the Ricardo-Mal-

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thusian doctrine are expounded in the admirable introduction with which he commenced his course of lectures at the University of Siena in 1882.[1]

Property in land is the primary social phenomenon for Loria, as for Henry George, with whom he has several points in common. The relation between the productivity of the soil and the density of population is the ultimate fact in determining the various historical periods in the economy of nations. This agricultural basis, which the development of industry in recent times has caused us to lose sight of, was detected, but not fully comprehended, by the Ricardo-Malthusian system. The phenomena which to Malthus and Ricardo seemed absolute and unchangeable, Loria regards as essentially historical and variable. He makes a thorough examination of the doctrine of population. He takes exception to the idea that the quantity of agricultural produce depends only on the productive power of the soil and the degree of development of agricultural skill; and he will not admit that the growth of population is determined exclusively by the physiological law of human increase and the self-control of man. Besides natural and technical limitations, the development of agricultural production is subject to economic restrictions as well, such as the exclusive retention of fertile lands by large landowners, the concentration in few hands of city real estate, the unproductive use to which much land is put, the depressed condition of the agricultural laborer, and above all the antithesis of agricultural improvement and the interests of the landowners, who gain in rent by decrease of productivity. Agricultural industry is therefore kept by economic causes within artificial limits; and the existing lack of equilibrium between population and means of subsistence seems to be not a necessary consequence of a phenomenon of physical nature, but rather a product of human and social institutions.

Again, as to population, its growth is regulated by economic

[1] La Legge di Popolazione ed il Sistema Sociale (Siena, Lazzeri, 1882), p. 101. It is a remarkable fact that in the ten years that have elapsed, during which his then youthful mind has reached its maturity, his theories have not substantially changed. Accordingly his later works are but a development of the system whose underlying principles he formulated a decade ago.

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as well as by physical and moral causes. This is proved by the fact, contrary to what might be expected from the law of Malthus, that the wealthier increase more slowly than the poorer classes — a fact that may be explained by a desire on the part of the rich to maintain the standard of life and the comforts which they enjoy. And again, the Malthusian principle of a lack of equilibrium between population and subsistence would account for the poverty of an entire nation, but not for that of a part of the people, in glaring contrast with the wealth of the rest. Partial poverty must be ascribed to other causes, and above all to a system of distribution of wealth which modifies the economic condition of the various social classes in proportion to the increase in population. But here comes in Loria's broad conception of the phenomenon of population. The human and social institutions and the economic order which are the real causes of present discontent are in their turn but the results of the development of population. The increase in population transformed the original patriarchal economy into a landed system which better corresponded to the wider wants. Later on a further increase caused the disappearance of the mediæval order, which had assured to the laborer a certain degree of comfort, and reduced him to the condition of a wage-earner. In like manner still further development in the density of population must eventually transform the social order of the present day and give rise to a new form of landed and industrial organization.

For Loria, therefore, the increase in population is not, as it was for Malthus, an immediate and absolute cause of the poverty of the more numerous classes, but a mediate and historical cause. Between the two theories there is a fundamental difference. Malthus regards misery as a necessary and eternal result of the conflict of two laws, one physical, the other physiological. Loria, on the other hand, finds that the conflict is between an economic coefficient of production, of a negative character, which actually lessens production, and an economic coefficient of procreation, of a positive character, which tends to increase population, while to these two factors must be added a

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third, namely, the present system of the distribution of wealth. And all these phenomena he regards as the product, not of an immutable law of population, but of the actual degree of its development and of its density — an historical degree which can and even must necessarily change. Thus it may be said that the conception of the law of population which for Malthus is static, for Loria becomes dynamic.

The transformations in social economy, then, correspond to the successive degrees in density of population. To this one cause may be traced all the characteristics of any given economic phenomena. Thus Loria explains not only historical systems, but the prominent features of the existing order — the conflict of labor and capital, the crushing of small by large industry, the introduction of machinery, the lowering of wages. The increase of the human race creates an eternal, unceasing pressure on the soil. To each successive degree of density in population corresponds a particular social-economic system, and at each stage arises a particular method of production, a particular form of property in land, a particular arrangement in the cultivation of the soil. But each of these systems ceases in time to respond to increased wants, and through the operation of the same cause which gave it birth, it crumbles away to make place for a new and adequate economic order.

These are the fundamental principles of Loria's theory — a theory which does not justify the present economic organization as immutable, but which justifies it completely as an historical fact. Loria adds to this justification, however, a criticism, through which he predicts the dissolution of the present order and foreshadows the new order which will satisfy the new needs that must arise in the inevitable progress of social evolution. In his numerous works Loria has fully developed these principles from both the historical and the theoretical point of view. He has interpreted the economic evolution in its various phases and in its different phenomena, and he has criticised at length the entire structure of the present order and has demonstrated the necessity of its dissolution. In the new régime that is to arise interest, profit, rent, wages — all of them historical and

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variable categories — will disappear, to make way for an economic form which will restore the freedom of the laborer, and bring back social equality on the basis of freedom of the soil.

We must follow our talented author on his long way, especially in his two great works, *Agricultural Rent* and *Analysis of Capitalist Property*. The first of these ends with what he calls the "elision of rent" in a new social order, while the second studies the genesis and evolution of profit, and attempts to prove the necessity of its disappearance.

II. *Agricultural Rent.*[1]

I feel justified in speaking here at greater length of the *Agricultural Rent*, because, although written eleven years ago, this work not only constitutes a most important part of our author's system, but also contains a mass of investigations, both historical and speculative, which have formed most important contributions to science, and which deserve to be better known to the American public.

Our author starts from the Ricardian theory of rent. This he accepts in its theoretical content, but he ascribes to it only a relative and historical character, observing that the results of agricultural rent differ at different times, and that its social importance belongs properly only to the present economic period. In the joint ownership of the primitive village communities there was no such thing as rent. It was eliminated by the very method in which the allotments of land were made; for in some cases greater fertility was counterbalanced by smaller acreage, and in others, when the grants were periodically renewed, lands of different fertility came to each one in turn, or else various strips of different fertility were assigned to each at the outset. In the family communities the system of patriarchal economy, in which exchange was almost absolutely lacking, gave to rent a simple value in use, or mere utility, which was enjoyed by all the members of the cultivating family or group.

With the rise of private property rent acquires a different

[1] La Rendita Fondiaria e la sua Elisione Naturale. Milan, Hoepli, 1880. 743 pp.

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character and becomes a permanent advantage attached to certain individuals. But for a long time various causes limit either its development or its social importance. In the middle ages, for instance, the characteristics of rent are quite different from those at the present day, and are of very little importance. The feudal landlord grants his immense tracts of land to his vassals for a fixed sum which never increases. The rent, or at least the increment of production over the fixed payment, therefore constitutes the vassals' profit. They in their turn sub-let the land to others and thus the rent is distributed among several persons. Owing to the undeveloped state of exchange such a rent exists only in kind, and the feudal lord makes use of it, not for his personal advantage, but in maintaining a large retinue of followers, in supporting the poor, *etc.* When a money economy arises, the feudal lord, who on account of his position can neither practise a trade nor lend capital, spends his income on manufactured articles, the price of which is kept up by the monopolies and guilds of the time. So it is that rent is cut off, or "elided," first in favor of the vassals and the peasants, and then in favor of the artisan-capitalists. In the middle ages, as Quesnay said, the cities lived at the expense of the landowners.

The rise of the new economic order, the development of commerce and population, caused rent to increase. But various causes, chief among which were the great agricultural improvements brought about by the system of fixed rents known as emphyteusis, co-operated in lowering it rapidly, so that it was an unimportant factor in the early part of the modern era. But the landowners, through the political influence which they exerted, succeeded in increasing their rents by means of a policy of protection to agriculture. Free trade, Loria stoutly maintains, was not possible until rent began to rise spontaneously; the growth of population and the manifestation of the law of diminishing returns then rendered unnecessary any further effort to increase rent artificially. Even under present conditions there are certain cases in which this stage of rent is involved, especially in connection with customary tenure, such as the metayer system, where the rent is divided between the

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landowner and the cultivator; for here the landowner's share is invariable and is determined independently of the fertility of the soil. But these forms tend to disappear; and in contradistinction to past times, when rent tended to eliminate itself, the economic movement of to-day is toward a land system which, by fostering the greatest competition, and through the medium of large farms, rent and wage-earning laborers, shall insure to the landowner ever more completely the surplus returns (*soprareddito*) of the soil.

Under the present system, therefore, agricultural rent acquires great importance, which is enhanced by the fact that, constituting a barrier to production, rent becomes the cause of its own continuous increase. This characteristic Loria designates as the "force of retorsion (*forza di ritorsione*)" of rent. Agricultural improvements are introduced on the most fertile lands; and as such lands require large amounts of capital, they become concentrated in the form of immense estates. To the smaller owners only the inferior soil is left, and the benefits of the improvements accrue solely to the large landowners, in the form of monopoly rent. But the system of large estates (*la grande proprietà*) thus developed obstructs these very improvements, which in last analysis are opposed to the interests of landowners, the receivers of rent. This obstruction appears in various forms: in the unproductive use to which vast tracts of land are put when devoted to purposes of mere luxury; in the ignorance of the tillers of the soil, reduced to the condition of wage-earners; in the concentration of rich landowners in cities; in their withdrawal from agricultural pursuits, and in the application of their capital to articles of luxury; and above all in the system of leases, which are detrimental to improvement in proportion as their term is short, while the progressive increase in rent is a constant inducement to landlords to shorten it. Rent is, therefore, in itself the cause of its own increase, and operates as a decided barrier to improvements and to the progress of production. It is only as population increases that such agricultural progress is possible as will not harm the landowners or cause prices to fall. In fact the introduction of improve-

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ments has, up to the present time, had no other result than that of keeping the price of agricultural products constant, thus affording subsistence to a larger population and rendering possible a steady increase in agricultural rent.

The pernicious effects of agricultural rent, as it now exists and develops under a system of large estates, diffuse themselves throughout the entire social structure. Rent lays bare the very root of private property in land. While such a system may originally have been necessary in order to render cultivation more intense, yet, when joined to economic rent, it impedes the progress of agriculture. And with the excessive increase in rent private property no longer has a philosophical justification; for while the right of property founded on labor becomes an abstraction, there arises a form of ownership which without any right levies a tax that it has not earned. Thus ownership is no longer synonymous with the enjoyment and free disposal of the soil (from which the large landowner is completely divorced), but it does mean the right of assessing an ever-increasing tax on the entire population.

Agricultural rent exerts a depressing influence on the non-proprietary classes, whether agricultural or manufacturing. Indeed, the system of short leases, which results from the increase in rent, establishes a permanent conflict of interest between tenant and owner; and the outcome in every case is either positive gain for the landowner, or injury to the land through lack of improvements. Under the stress of short leases and competition, the tenant is compelled to make good his losses out of the agricultural laborer, whom moral and intellectual depression prevents from rising. Thus wages diminish proportionately with the increase in the prices of commodities, and the decrease in wages benefits neither the consumer nor the tenant, but only the landowner. The law of diminishing returns and the rent which it intensifies limit production, raise the price of agricultural produce and consequently increase the cost of labor, and thus become a burden to the capitalist-manufacturer, who tries in every possible way to shift the effects on the workmen.

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The characteristic facts of modern economy relating to the industrial classes can receive no scientific explanation where they cannot be connected with that fact which produces economic rent. This close connection which exists between industrial phenomena and the law of diminishing returns shows how the most varied facts of the modern economic system may all be referred to one simple cause, which resides in the processes of nature.[1]

Loria does not regard as sound the usual method of considering the relation between capital and labor. Classical political economy represents capital and labor as entering into free contracts; socialism portrays labor as impoverished by capital: but the truth is that if labor is held down by capital, the latter in its turn is not free, but is dominated by the law of diminishing returns of land. "The land acts as a true cosmic power over both factors of production; it lays down its own stipulations in the labor contract."[2] But this potent influence is to be felt only in connection with the economic and technical structure in modern industry, and it is directed by the actual organization of modern society; and while on the one hand it gives a momentous impulse to industrial production, on the other hand it depresses the condition of the working classes.

It would not be unreasonable to expect that, after ascribing so profound an influence to economic rent, Loria would conclude by demanding that it be appropriated by the state. But our author, who, as stated above, has many points of contact with Henry George,[3] here breaks entirely with him. Loria asserts that it will be impossible for the state to absorb all the rent. In the first place, there is great difficulty in making a practical distinction between agricultural rent and the profits of capital sunk in the soil; in the second place, it is far from easy to determine the increase in rent; and lastly, there is the troublesome fact that when the land is sold the rent is capitalized and accrues to the benefit of the seller. Neither could the radical remedy of nationalizing the soil accomplish the purpose; for

[1] La Rendita Fondiaria, p. 311. [2] *Ibid.* p. 312.

[3] Loria's Rendita Fondiaria was published simultaneously with George's Progress and Poverty, and there is no reason to suppose that Loria was acquainted with the latter work at that time.

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then the state would be obliged to lease the land to private individuals, and this would mean rent, with all its defects and conflicts of interests. If a system of long leases were adopted, the increase in rent would revert to the lessee; if short leases were preferred, they would mean the absence of all improvements and all rational cultivation. Nor could socialism in its simplest form, the nationalizing of capital, succeed in extirpating rent. Rent will always fall to the most favored producers, who exchange their commodities at a price corresponding to maximum cost. To eliminate rent would require the nationalization of exchange as well as of production; but such collective ownership, which existed even when rent did not, offers no guarantee of the intensive production and agricultural progress which become all the more necessary as population increases.

The remedy, according to Loria, must still remain in the field of spontaneity and individuality, and may be found in a form of ownership which, following the historical process of elision of rent, will even in our own time eliminate that sad factor of injustice and misery. It is difficult to give in a limited space a sufficiently clear idea of Loria's conception of the elision of rent. The acute but abstruse theoretical discussions in which he elaborates this conception constitute naturally that part of his work which is most open to controversy. It will suffice here to sketch them simply in a summary way, especially as the fundamental idea is taken up again in the other work on which I intend to dwell at length.

The natural elision of rent, Loria thinks, would come about in a system of small farms cultivated co-operatively — a system of associated ownership, satisfying the demands of agricultural progress, which would be stimulated by knowledge and association, and above all would not be annihilated by capital. Such a system, full of vitality and energy, would be the true antithesis to the wasted and impoverished small farms of to-day which tend continually to disappear.

In this proposed system, even if rent existed, its results would be mitigated to a great degree; for it would benefit a large number of persons whom to-day it injures, it would not lower

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the wages of farm labor, and it would encourage agriculture. But as a matter of fact this system would not permit of rent. Under present conditions, since value as between the industrial producer and the agricultural producer at a less cost is determined by the law of maximum cost of production, and thereby gives rise to rent, agricultural capital will necessarily be transferred to the manufacturing occupations as soon as the agricultural producer begins to find prices below the maximum cost of production. But in this system of small ownership this would not be possible, because the ties which bind the small cultivator to his property would prevent his leaving it as long as he received ordinary profits from its cultivation. The relative immobility of agricultural capital would limit the competition between agricultural and industrial producers; it would confer upon the latter a monopoly quite equal to that of agricultural producers at a less cost, and would create a situation in which the market prices of manufactured articles would differ for different agricultural producers. Thus those agricultural producers who had realized on their products a price greater than actual cost would have to hand over their profits in the shape of higher prices to be paid for such manufactured articles as they might wish to acquire. The rent on land therefore would cease to exist.

Such a process of elision, according to Loria, would come about naturally. The elision of rent is to him a normal historical phenomenon, whereas the appropriation of rent by the landowners is a special phenomenon of modern times and appears to constitute a deviation from the beaten paths of history.

Private property in land has its real foundation in the pressure of population on subsistence, and in the consequent necessity of intensive cultivation. The change from common to private ownership corresponds to the first manifestation of the resistance of the soil in production, or the law of diminishing returns; just as the successive changes which occur in the system of private property in land are only the result of successive degrees of this resistance.[1]

[1] La Rendita Fondiaria, p. 482.

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In a later stage of social development the growth of this resistance will finally terminate the long separation of the cultivator from the soil, and will inaugurate the era of cultivating ownership. With the disappearance of the usurping phenomenon of rent, property in land will thus find its legitimate justification in the unceasing, free and conscientious labor of the husbandman; and out of the greatest tension of antagonistic interests will be born social harmony.

But this social harmony which in Loria's first investigations appeared to him as the result of merely the elimination of rent, finally, after his profound researches in the *Analysis of Capitalist Property*, appeared possible to him only as the ultimate consequence of a complete dissolution of the present social system, in the course of which not only rent, but also interest and profits would disappear. These latter elements are to be eliminated by an agricultural régime analogous in many respects to the system of small farms described above. Let us then follow him in his studies on "capitalist property."

III. *Analysis of Capitalist Property.*[1]

This work consists of two distinct parts. The first develops deductively the results produced on the social order by the original system of free land, and by the later systems in which the land has ceased to be free. In the second part the abstract conclusions are supplemented by a profound historical investigation. Let us also follow this order.

Assuming an economic system where free land exists, accessible to all and capable of cultivation by simple manual labor, Loria holds that neither profit nor interest is possible. Under these conditions, a laborer would consent to abandon free land and labor for wages on the land of a capitalist-producer, only if he could obtain a compensation equal to that which he could get from land by investing capital in it. In fact the laborer's abstinence from free land and the capitalist-producer's abstinence from consumption, being incommensurable, would counterbalance each other. In such a case the laborer would

[1] Analisi della Proprietà Capitalista. Turin, Bocca, 1889. Two volumes, 474, 777 pp.

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appropriate to his own use the whole return for the capital furnished by the capitalist-producer, which would render the employment of capital itself impossible because unremunerative. But if this capitalist-producer had an interest in rendering more intensive and more remunerative the production resulting from his own work, he might accumulate a new capital and advance it to a laborer who would work on his land as a partner. He would succeed in uniting on his own land the useful results of his labor and his capital with those of this new capital and the associated laborer. But he would also have to give to the latter one-half of his produce, because it is only on that condition that the laborer could obtain for abstaining from free land a compensation equal to that secured by the capitalist-producer for abstaining from consumption.

Moreover these terms — the only ones which a simple laborer would accept — would be to the advantage of the capitalist himself, since the latter would obtain through the combination of labor a greater product than he could secure alone. But in such a form of distribution as would be compatible with this association, profit could not exist; for the earnings of the one who has accumulated would be equal to those of the one who has not; and the capitalist, in order to secure some returns, would be obliged to take a hand in the work under the same conditions as the simple laborer.

Nor would interest be possible in this régime of free land. The laboring proprietor who would borrow from a capitalist would cease by this very fact, says Loria, to be a proprietor; since by becoming a dependant of the capitalist, he would virtually abstain from the land. But in such a case he could claim as a return for his abstinence the whole produce of the capital; which would thus not be loaned otherwise than gratuitously. And this confirms the assertion which has already been made to the effect that under a system of free land the capitalist could not derive any advantage from his capital unless he should set to work himself.

The existence of free land cultivable by simple labor would also, according to Loria, exert a great influence on value, fixing

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it exclusively in terms of labor. For instance, if a producer who employs capital and labor obtains therefrom only a value equal to that obtained by another producer who employs labor alone, he has no right to complain on that account; for he is compensated for the employment of his capital by the resulting relief from intense personal exertion. And the competition between capitalist-producers would prevent his making such use of this employment of capital, already thus compensated, as to bring about an increase in value. In this way, as capital would not enter into the cost of production, products would be exchanged simply on the basis of the respective quantity and quality of labor.

But with the cessation of free land everything changes. The laborer, no longer enjoying the freedom of choice between free land and association with the capitalist-producer, is compelled to yield his labor to the latter, no longer indeed for half the product, but for a smaller remuneration. There is thus left to the capitalist a surplus which constitutes what is called profit. As long as this profit remains slight it does not exempt the capitalist from the necessity of labor; but this exemption comes quickly enough with the increase of profit. It is then that occurs the complete dissociation of capital from labor, and the formation of a class of idle capitalists to whom profit is a necessity of life. Furthermore, as we shall soon see, the continued existence of profit leads inevitably to the reduction of wages to a minimum. As free land ceases, interest suddenly appears; for the laborer who borrows capital, no longer having the option of free land, cannot claim the entire produce of the capital, but must give up to the capitalist a part, which is interest. The existence of profit produces a different determination of value from that which prevailed before. If we deal with commodities produced by labor alone, or by labor and equal quantities of so-called technical capital (*i.e.* capital in the form of plant, *etc.*), their value will evidently be determined by the labor; but if, as is more commonly the case, we have to deal with commodities produced by labor and various quantities of technical capital, the co-operation of capital will evidently demand a return which will

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no longer consist in simple relief from labor (since the capitalist does not work), and which will therefore exercise its influence on value. To adopt Loria's expression, although it is not very clear, value is given by the quantity of complex labor; that is, by the quantity of actual labor contained in the products plus the quantity of imaginary labor contained in the technical capital employed, multiplied by the rate of the profit corresponding to the duration of the advance. This rate of profit depends necessarily upon wages, which, as we shall see, are reduced to a minimum, according to the variation in the cost of the laborer's food.

These conclusions lead Loria to assign an essentially historical character to the phenomenon of value.

> While by a natural error we are at first led to see in the actual form of value its natural and permanent form, a deeper study reveals to us that an historical and contingent fact lies at the base of the actual formation of value; that as long as free land lasts, or even after it has come to an end, value is graduated according to the density of labor; and that the value of commodities is given in terms of the quantity of labor required to produce each. But on the other hand, as soon as wages have been reduced to a minimum, value will be determined not only in proportion to labor, but also in terms of a second element, namely, the rate of profit, or in last analysis wages. This second element is beyond dispute logically necessary in the determination of value under existing conditions; but far from being eternal, this logical necessity is itself the result of an evolution.[1] . . .

The disappearance of free land has important effects, according to Loria, upon the accumulation of capital and upon wages. Under that form of association between the capitalist-laborer and the simple laborer which has been shown to result from free land, there will be a limit to individual accumulation. In fact the accumulation of capital cannot pass the point at which the addition of a new laborer fails to increase the productivity of the individual labor; for combined producers find it to their interest to take in other laborers only in so far as this addition will increase the quantity of produce obtained by each one of

[1] Analisi della Proprietà Capitalista, vol. i, p. 120.

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them. Therefore *individual* accumulation of capital will be limited by the productive power of the individuals in combination. But *social* accumulation will continue, because the new laborers who have been shut out from the association can go over to free land and organize there other associations. On the other hand, when free land ceases and labor is consequently separated from capital, individual accumulation becomes automatic and progresses without limit, because by means of a greater capital the capitalist can employ a continually greater number of laborers. The capitalist who does not work accumulates not for the simple purpose of increasing the efficiency of his labor, as in the case of free land, but in order to increase continually the number of laborers, from each of whom he can extort the difference between product and wages. Individual accumulation therefore becomes a perpetual machine by means of which fortunes increase indefinitely. And as a result of the cessation of free land, there arises that greedy fever for gold which the economist usually considers inseparable from the nature of man, but which Loria regards as only an historical form.

But this unlimited accumulation reacts, through the medium of competition, on the rate of wages. By raising this rate it threatens the existence of capitalist economy, because the increase in wages makes it possible for the workmen to go to less fertile lands, as yet unoccupied, which can be cultivated only by those who possess capital. Capital is thus confronted with the question of life or death — of reconciling an unlimited accumulation, which it is impossible to avoid, with the reduction of wages to a minimum, which is essential to the continuance of profit. This problem is solved on the one hand by the employment of women and children, the lengthening of the working day, the direct decrease of wages and the use of machinery; and on the other hand by a series of facts which tend to limit the productive employment of capital, such as the vast crystallization of capital in the form of money, the payment for useless services of middlemen, the transformation of productive into unproductive capital, the combination of capital-

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ists and the concentration of capital in a few hands, the consumption of capital in speculation and crises — facts which are all ingeniously traced back by the author to a single cause. It is for the purpose of maintaining profit, therefore, that capital is consumed and rendered unproductive, and wages are reduced to a minimum.[1] For in proportion as capital is diminished or rendered unproductive, the supply of labor is made artificially redundant, and thus we have an excess in population, not as over against the means of subsistence, but as over against the supply of capital. Notwithstanding all this, through the gradual accumulation of capital profits diminish and in their turn restrict accumulation. But on the other hand the reduction of wages to a minimum removes all restriction on the increase in the number of laborers. The condition of the wage-earners presents no attractions which they will seek, by checking procreation, to preserve. So the poorer classes in the population increase, while the richer relatively decrease under the operation of the moral restraint. Hence capital tends to become ever more concentrated and the chasm between the social classes is ever widened.

This state of affairs, however, is not necessary and absolute, but is simply historical; it is the product of the degree of occupation of the soil which produces rent (the limit to production), minimum profits (the limit to accumulation) and minimum wages (the incentive to procreation). Thus in last analysis,

[1] At this point I may call attention to one of the many original ideas which are scattered throughout Loria's work. According to Loria, money results from the cessation of free land. With free land and the formation of value on the basis of effective labor, it would be possible to find in labor a general measure of value, and to have a general equivalent of products in the form of a paper money which should represent the quantity of labor into which a product could be converted. This would obviate the necessity of a rather expensive currency, which entails the consumption of an enormous quantity of labor and capital in the production of gold and silver money. Furthermore, in this labor which measures value, we would have an invariable standard. But in capitalist economy, based on the cessation of free land, a useless and costly metallic currency is necessary to the capitalists, as a principal item in that unproductive form of capital which limits the demand for labor and reduces wages to a minimum. Thus, the continuance of profit, besides rendering capital unproductive, makes economically impossible an absolute and invariable standard of value such as labor would be.

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the automatic excess in population and the misery of the lower classes are due to the exclusive ownership of the land, which generates profit, minimum wages, Ricardian rent, and besides these, a new form of income, the monopoly revenue of the land which accrues to the landowners and which is ever on the increase. In fact, even if there were no more uncultivated land, it would still be possible, with equal rights of occupation in all, to establish the free association between the capitalist-laborer and the simple laborer, which by restoring equality would in itself extinguish profits and wages. But the existing economic order, in which our society toils and struggles, fortunately contains within itself the germs of its own dissolution. It is that apparently permanent automatic excess in population which leads necessarily to such a dissolution. The increase in population necessitates the extension of cultivation to less and less fertile soil. Rent will thus steadily rise and so absorb part of profit, which the progress of accumulation reduces more and more, while the exclusive ownership of land will create and ever increase the monopoly revenue which is to be added to the Ricardian rent. In the endeavor to increase temporary profit, the most risky speculations will be carried on and the soil will be despoiled even to exhaustion; but in vain.

At the very moment when profit has become automatic and seems to defy every attack, its ruin is being inevitably prepared. For as profit is reduced below a minimum, owing to the increasing restraint which exclusive landownership puts upon production and therefore upon profit, the continuance of production becomes irreconcilable with capitalist economy; and hence it becomes necessary to substitute for the economic form based on the suppression of free land, a superior social form founded on free land, or else to institute a mixed association (that is to say, an association on equal conditions between the capitalist-producer and the laborer) thus re-establishing the severed ties of man to the soil.

The triumphal march of the working classes, whose discontent and ferment are characteristic of our present social order, is inevitable.

Numbers, which constitute the weakness of the working classes in the economic struggle, are its strength in the social struggle and render

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its onslaught irresistible; and the result will come in the reconstitution of free land and in the institution of that social form which is its necessary accompaniment.[1]

In the second volume of his great work Loria seeks in facts the verification and proof of his deductions. This study is of special interest to the American public, as it contains a profound analysis of colonial economy, with especial reference to North American settlements and their development. The sources from which the author draws his information are largely American; and it would be in the highest degree desirable if some competent American writer were to examine and test Loria's evidence and conclusions.[2]

The author finds in colonial history at every step a confirmation of the close dependence of the economic order on conditions of soil and population. The American colonies, for example, at the outset, present a condition of things which renders quite apparent the great influence of land on social phenomena. For while the people have the same character as in Europe, the social institutions are entirely different. The cause of this difference then must lie in some fact of external nature, and is to be found in the existence of free and uncultivated land to an extent unknown in Europe. The motive power of the social process is the land and man is but a simple spectator.

In the beginning of American colonization there was a most fertile free soil, which could be cultivated without capital. So great was the productivity of the soil that families without any money and with but very few implements could soon make it amply meet all their wants by simply settling on the land. And since any one could easily cultivate the land for his own account, even without any means, a wages class was an impossibility. The colonists were dispersed, living family by family and tilling

[1] Vol. i, pp. 776, 777.

[2] Loria's investigations are of course not limited to America, but cover other colonial regions as well as a survey of the history of Europe. If special mention is made of the American facts, it is because of the probability that they must be of greater interest to the readers of the QUARTERLY.

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the soil according to primitive methods. The existence of fertile uncultivated lands rendered improvements unnecessary, — while on the other hand, the isolation of the producers rendered them impossible. The first agricultural institutions of the colonists were analogous to, and in certain cases identical with, those of primitive communities. The colonists had not absolute property rights in the soil; they were compelled to cultivate it; they were forbidden to sell it to persons outside of the community; and in certain places they were even compelled to cultivate it in common. This compulsory cultivation is to be explained by the fact that the sparsity of the population denoted an insufficient production, and that the community endeavored to increase the efficiency by force. Even after all traces of collective cultivation and ownership had disappeared, there still remained various legislative provisions tending to impose on the landowners an obligation to cultivate the soil effectively. Under these conditions profit did not exist, and the colonial laws rigorously prohibited any charge for the loan of cattle and agricultural implements. In spite of these legal provisions, production was certainly lacking in energy; but since the population was scanty, there was a general feeling of comfort, such as characterized also the typical order of the Germanic mark in Europe.

Equality of conditions, absence of extreme wealth and of abject misery, inexhaustible fertility of the soil and unrestricted political liberty constitute in primitive America the type of that economic paradise which Smith and Ricardo contrast with the abuses of our social system.[1]

But such a state of affairs could not last. On one hand the increase of population either through natural growth or through immigration, and on the other hand the diminishing fertility of the soil and the necessity of resorting to less fertile lands, brought about a more intensive system of cultivation. But as the decrease in production failed to induce the scattered cultivators to unite their forces, and no other adequate stimulus

[1] Analisi, vol. ii, p. 52.

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existed, and as wages were not compatible with free land, a system of compulsory association was necessary. This was found in slavery, which in the American colonies, as in Rome under the kings, supplanted the system of isolated producers, and while making production far more efficient, brought about the existence of profit. But this increased efficiency of production is only relative; for slavery, by reducing the laborer to the state of a brute, by unfitting him for social duties and by other influences which it exerts, implies a decided limitation on production. Though far less restrictive than the system of isolated cultivators, the slave system in the course of time becomes unendurable. The effects of its limitations on production become more and more apparent with the exhaustion of the soil and the increase in population. The expense of keeping the slaves in subjection and the great mortality among them eat up nearly all the profits to be derived from them. In the United States, when the population reached a certain degree of density, the expense of keeping the slaves was very little less than the returns from their labor.[1] Thus slavery died out in the colonies, as it died out long before in Europe, and with the liberation of the slaves there arose a new era of isolated producers as the slaves scattered over the free lands. It is a characteristic fact that during the last century slavery in the American colonies had caused the downfall of the system of small ownership and substituted for it that of large ownership better adapted to slave cultivation; but as soon as slavery began to be abolished in the various states, the large slave estates were cut up and transformed into a system of small properties.

[1] Loria makes some acute observations on the formation of value under slavery. He says that slave economy renders it impossible to attend to the variations in the demand for products; for when the demand diminishes, the owner cannot dismiss his slaves, as he would paid laborers. Production assumes then an automatic and persistent character, notwithstanding the unlimited decrease of profits. There can be no competition in an economy devoid of capital and incapable of improvement. But when competition is absent, value no longer depends on the law of cost (which is itself a consequence of competition), but is influenced only by demand and supply, and is regulated exclusively by considerations of utility and human wants. Thus as a general thing the cotton produced by the American planter was sold below cost; and in the ancient systems price was determined exclusively by the abundance or scarcity of the commodity.

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But dissociated producers are incapable of energetic production and so the contrast between the increase in population and the decrease in produce becomes all the more intolerable. On the other hand the fertility of the soil is still sufficiently great to stimulate the search for some form of association by which production may be increased. But all efforts to create a union of free men under the direction of a capitalist are futile as before, because of the existence of unoccupied lands. All the conditions combine to produce a new form of compulsory association in which capitalists compel the services of laborers; it is then serfdom that follows slavery. In Europe this situation characterizes the time of the feudal system, in the establishment of which free landowners were expropriated and reduced to the condition of serfs. In America the principles of serfdom are represented by the system of "indentured servants" which long prevailed. Serfdom presents a productive power greater than that of slavery, but still not without limit. With a still further development of population, this system of production also becomes obviously inadequate; while at the same time the feudal system (which in Europe is connected with serfdom), with its many defenders of profit, takes away from the feudal lords a great part of profit. Accordingly out of the ruins of serfdom arises a new product of economic evolution, the free association of labor.

The existence of free land and the freedom of the laborer contribute to make the reward of labor very high, and to prevent the capitalist from deriving any profit from his capital. Ample proof of this is found in the fact that in the North American colonies and in the West Indies during the last century wages were so high that capitalist enterprises did not succeed in maintaining themselves. The only possible form of production was the small industry, in which the *entrepreneur* was at the same time a workman, and in which therefore profit was not separated from labor. Such a condition was also characteristic of the first period of the guild system in Europe, when the master was, so to say, the equal of his apprentices, and his income was derived from labor rather than from capital. Capital

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seeks to react against this state of affairs, but the existence of free land and the scarcity of laborers paralyze its exploiting tendencies. The beginning of this century in the United States and the end of the middle ages in Europe mark the golden age of the laborer.

But this era of prosperity is of short duration; the population demands a production much more efficient than that which has arisen with the freedom of the laborer. Thus in America and in Europe property tends to become concentrated, large farming supersedes small farming, and the demands of an increasing population act as incentives to industrial inventions. The expropriation of small farmers which took place in Europe in the sixteenth and seventeenth centuries produced vast social results, because it was accompanied by the cessation of free land cultivated by simple labor.[1] In the United States such a movement began with this century, and ever since the connection between the concentration of land and the increase in wealth and population has become steadily more manifest. Small landed properties are more characteristic of those states where population is scanty and industries little developed; while where population is relatively dense and industry is flourishing, the ownership of the soil shows a threatening and ever growing concentration. And the state itself, through injudicious grants of land, which constitute a veritable social crime, hastens the development of large ownership, and, regardless of the growing population, it officially decrees the era of *latifundia* — that historical cause of utter ruin.

With the loss of free land the workman loses his long standing protection against economic serfdom and is compelled to sell his labor to the capitalist, that is to say, to become a wage-earner. From this point the legal subjection of the laborer comes to an end. The capitalist is no longer constrained to

[1] It should be noted that according to Loria the economic subjection of the workmen does not depend on the utter disappearance of cultivated and unoccupied lands; it becomes possible with the occupation of all the land that can be cultivated by labor without capital. The free lands that require capital do not offer a sufficient security to the laborer, because by the reduction of wages to a minimum the laborer is prevented from accumulating what is necessary.

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bar him by law from access to the soil; but on the legal liberty of the laborer is built up his economic serfdom. Now come in rapid succession the improvements made necessary by the increase in population and by the decrease in the productivity of the soil — improvements hitherto impossible on account of slavery and serfdom, but now quite compatible with wage-paid labor. These improvements thus are a consequence of the cessation of free land. So also, though less directly, is another characteristic of the new era, *viz.* competition, which arises from the mobility of the wage-laborer and the untiring efforts of the capitalist in a situation in which capital has assumed the greatest importance. Under the semblance of the freedom of the laborer, a new and more cruel period of impoverishment begins; for wages can be reduced to a minimum by the capitalist. It is the latter who has really obtained freedom, — freedom from the burdensome necessity of keeping the laborer in legal subjection in order to make some profit out of him. At first in the new system wages are high, on account of the scarcity of the laborers; but capital works by various methods to lower wages and thus to prevent the laborer from gaining access to land through saving.[1] The methods adopted in Europe and America are, as we all know, the employment of women and children, the lengthening of the working day, the use of machinery, *etc.* By such means capital lowers wages and depresses the condition of the workmen. The impulse to the formation of capital which is given by machinery and the development of production, would tend however to raise wages; but the capitalist counteracts this tendency by the great development of capital and unproductive labor effected through middlemen

[1] Loria observes acutely — and how accurately I shall leave it to the American reader to judge — that in 1798, when wages were high and laborers could have occupied lands requiring capital, a federal law was passed for the very purpose of excluding them from these lands by providing that the lands should be sold at public auction in tracts of not less than nine square miles; on the other hand, the Homestead Act of 1862, according to which settlers could obtain farms of not more than one hundred and sixty acres, was enacted when wages were low, when the only lands to be disposed of were those which, being less fertile, required considerable capital for their cultivation, and when, therefore, the free access of the laborers to the soil could no longer endanger the interests of the capitalists.

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and speculation. From the War of Secession to the present day the number of middlemen in the United States has increased enormously — from one for every two hundred and twenty-two inhabitants to one for every sixty-one inhabitants. Here too another form of capital and unproductive employment has grown enormously — bank capital, which with the multiplication of banks has fostered wild speculation, to the detriment of a healthy production. So in Europe also the large banks supported by the governments have been of use principally to speculators.

However, as population increases and wages gradually diminish, profit necessarily keeps up and becomes automatic; its existence no longer depends on the systematic compulsion of labor. But this stage of economy has no more permanence than the others. Population keeps up its pressure, and in the monopoly rent which is largely developed under this influence is found the antagonist which at last reduces profit permanently even below the minimum, by throwing capital into that state of chronic depression that characterizes our age. At the present time the reduction in profits is general in America and Europe; industry is no longer remunerative; the capitalist economy is destroying itself. In its agony capital casts about frantically for relief. In agriculture expenses are diminished, tillage land is turned into pasture and extensive is substituted for intensive culture. In manufacturing industry all manner of rash enterprises are undertaken. But every expedient is in vain. As the soil is exhausted, agriculture fails; with ignorant and excessive production, industry falls into general depression.

At the same time the inequalities in social conditions become continually more serious. Wealth becomes more and more concentrated; misery becomes more intense and widespread. Never before has the contrast between wealth and poverty been so glaring and painful as now: never before the present time has the misery of the poor been more extreme, or the conditions of their daily life more hopeless and degraded. "While the too rich food of the wealthy classes causes cancerous diseases at the west end of London, death from hunger is more frequent at

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the east end, and starvation is rampant throughout the huge population."[1] On the one hand, products in apparent abundance that find no purchaser and hence ruin the producers; on the other hand, in the midst of this abundance of food, famishing crowds of workmen without work, tending toward revolution. Although at a slower rate, this condition is developing in America also; and the new and the old world are bound as with bonds of iron in a common woe. And it is noteworthy that in America this economic transformation goes hand in hand with a political transformation. The cessation of economic freedom, due to the total occupation of the soil, is destroying democratic methods, the glory of early American times. The Congress of great democrats, which characterized the era of independent producers, is being superseded by a Congress of plutocrats and railway magnates, which is the parliamentary expression of an era in which capital predominates.

The inadequacy of the existing order to satisfy the demands developed by further changes in the relation of population to productivity of the soil renders necessary a new social system, which must have for its first principle the denial of exclusive property in land. Access to the soil must be free to all men, that they may render it fruitful by their labor. On free land individual cultivation will not prevail, but there will necessarily arise that spontaneous association of labor, which now for the first time is rendered feasible by the diminished productivity of the soil. This spontaneous association will be a union on equal terms between the capitalist-producer, who will enjoy the ownership of the soil, and the simple laborer, who will have no capital but will renounce all ownership of the soil. This union will insure the freedom, equality and welfare of all; for if the capitalists wish to compel laborers to work for a smaller remuneration than they themselves secure, the laborers may rebel, and by asserting their imprescriptible right to the soil, may occupy part of it for their own exclusive use. With the advent of this new economic order the long and sanguinary struggle of society, the lack of social equilibrium, the deep and grievous

[1] Vol. ii, p. 412.

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contrasts will cease completely, and there will be inaugurated an era of peace in which human thought, relieved of the daily preoccupation for material interests, will be able to rise to the grandest and loftiest problems of nature.[1]

To some readers the degree of originality which I have ascribed to Loria's ideas may seem exaggerated. Strictly speaking, his fundamental conceptions are to be found in earlier writers — even in earlier centuries; and he makes constant use of the works of these predecessors, with comment and explanation. So, for instance, in discussing the influence of free land on the condition of the working classes, he has been anticipated by Franklin, Merivale and Wakefield; and in respect to the influence of the existing constitution of property in land, he is paralleled by Henry George; his criticism of capitalist economy shows traces of the thought of Karl Marx; and finally, as I have repeatedly observed, the point of departure of our author's system is to be found in the theories of Malthus and Ricardo.

But originality, as I understand it, does not consist in the first conception of an isolated idea, or in the hasty outline of a principle. Rather must it be ascribed to him who, knowing how to profit by all that has gone before him, develops and co-ordinates the ideas of earlier men, draws from them all their necessary consequences and thus conceives and brings to light an entire organic system. The theory of rent belongs to Ricardo, although many others before his time had called attention to it; the invention of the steam engine belongs to Watt, although he also had his forerunners. And I believe that it would not be easy to deny to Loria the originality involved in the conception of a great historical system of social economy, in which the evolution of human society is traced on lines that are strikingly novel. Starting often from principles already propounded and developed by others, he assigns to them a different character and importance, or brings into new

[1] In a work entitled La Teoria Economica della Costituzione Politica (1886), Loria has shown the relation between economic and political conditions. But it would take us too far astray to speak of this, or of his more recent and important work on money, Studi sul Valore della Moneta (1891).

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light their influence on social phenomena. Even more perhaps than in the broad outlines of his system is the originality of Loria's mind revealed in the minute details of his work, and in his novel interpretation of familiar social facts. Nor is it a small testimonial to his originality that his theories provoke endless criticism; that his synthetic conceptions are often so bold as to seem paradoxical; and that many of his interpretations of facts are so entirely at variance with generally accepted ideas as to call forth protests from those who are most fascinated with his general system. Such protests may be expected from those readers who learn to know his theories only from the present essay; for here the necessity of condensing has made assertion take the place of proof, so that the theories often appear bolder and more audacious than in the works themselves, where all the resources of deduction and induction are pressed into service.

IV. *Criticism of Loria's System.*

Before bringing this paper to a close I must now turn briefly to criticism. And in so carefully constructed a logical system as Loria's, it is necessary to examine not only the general outlines but also the details; for a flaw in a single stone may prove disastrous to the whole structure.

In his work on *Rent*, our author, I agree, has brought into a clear light the social effects of rent in the present system, and has proved historically, perhaps not the complete elision of rent, but at least its social insignificance in preceding periods. Still Loria does not seem to have made it clear how rent can be "elided" in a later stage of evolution. He pays too much attention to the characteristics of his hypothetical small cultivating proprietorship, and too little attention to the process by which this system can be substituted for the large ownership which to-day tends more and more to swallow up the smaller. Nor does it sufficiently appear whence are to be derived the means through which the large ownership is to play so efficient a part in the new association as Loria thinks it will. And if it be said

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that Loria clears this up later on in his *Capitalist Property*, I answer that, although the "association on free land," which figures so largely in his last work, has many points in common with the "cultivating ownership" of his *Agricultural Rent*, of which it is substantially but an outcome, still the two are not identical. The conclusions of the two works thus betray a certain lack of uniformity. Again there is no satisfactory proof that small ownership must surely "elide" agricultural rent. According to the author such an elision would be due to the relative immobility of the capital of the working landowners or farmers, and to the influence of their attachment to the soil that their labor has rendered fruitful. Now even if we admit, with Loria, the tendency of a system of small ownership to eliminate rent, it may be asked whether he has not possibly exaggerated the immobility of the farming capital, as well as its importance, and whether, on the other hand, he does not commit an error similar to that of Ricardo and his followers (and into which he himself falls often enough in his various works), by ascribing to labor and industrial capital a perfect mobility. For this mobility and immobility are both subject in fact to numerous limitations.

We must, however, devote ourselves especially to the *Analysis of Capitalist Property*, not only because it is the most recent work, but because in it Loria's system is developed most fully and is carried out to its ultimate consequences. In the study of this colossal work a host of qualifications and objections are suggested, of which, however, I must limit myself to those that touch the fundamental principles of the author's system and his most important deductions. As to Loria's doctrine that free land would make profit and interest impossible, and the ingenious deductions that he associates with it, I must confess that they have made a profound impression upon my mind; but although I think that he fully demonstrates the great equalizing influence of free land, I cannot accept his doctrine in its entirety. His conclusions presuppose a physical, intellectual and moral equality in men that is entirely inadmissible. Free land opens indeed a field to all kinds of activity and places all

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men on the same footing. But is it possible to assume that under equal conditions all men will know how to till the soil — and that too without capital and without assistance? And will all alike have the ability and desire to gain from land an equal capital, of the same quantity and in the same time?

Loria tells us that under a system of free land the capitalist's abstinence from immediate consumption and the workman's abstinence from free land are incommensurable, and that accordingly the produce must be divided into equal shares; for if either party obtained an advantage the other would have the opportunity of changing to the better position. But we may ask ourselves whether, even though there is fertile land free to all, everyone will be able and willing to make all the sacrifices required to cultivate a virgin soil; whether everyone will have the knowledge and ability requisite to get from it a surplus of produce; whether everyone will be willing to accumulate this surplus and turn it into capital. Again, granting the ability and the desire, will all this be possible to everyone in the same degree and at the same time? May not, after all, such difficulties be met with and such sacrifices be required, as to make more or less of the people prefer to work for others, even though for a somewhat smaller compensation? On the other hand, as soon as increased production results from the association between the capitalist-laborer and the simple laborer, the latter will be held to the association by the fact that he obtains something more through it than he would on free land. It is just and natural that a greater part of the increase should fall to the capitalist-laborer who has already accumulated, than to the simple laborer, on whose mind the difficulties of accumulation must make no less an impression than its feasibility.[1] Graziani, in criticising Loria's doctrine, argues that there is an absurdity in assuming that he who has accumulated should have the same returns as he who has not, because in such a case the capitalist would cease to accumulate and would become a simple laborer. But this objection seems to me untenable, because

[1] For some excellent ideas on this general subject see Alessio's article on Loria, in the *Rivista Italiana per le Scienze Giuridiche*, vol. x, nos. ii, iii.

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even in a system where produce is equally divided, capitalist labor would always profit by the increase due to association. But it does seem plain that he who has already accumulated should necessarily profit by the benefits resulting from association to a greater degree than he who has only the possibility of accumulating. Loria's theory contains, however, a great substratum of truth in the principle that with free land, profit, even though not annihilated, would no longer be able to depress and exploit labor as under the present system.

As to the elimination of interest by free land, here again I am not clear as to Loria's soundness. His idea is that by taking a loan from a capitalist the laborer becomes liable to expropriation, and this liability involves a degree of dependence which is equivalent to an abstinence from free land; such abstinence, therefore, justifies the appropriation of the whole produce of the capital by the borrower. Even if we admit that equivalence of the two kinds of abstinence on which, as we have already seen, the impossibility of profit is based, it is hard to see how the dependence of the workmen, caused by debt, can be equivalent to an effective abstention from the soil. For under a system of free land expropriation would have neither meaning nor object; and there could not be any real dependence of the workmen on the capitalist, because, given free land cultivable by simple labor, borrowing capital might conceivably be an advantage but could never be a necessity to the laborer. Furthermore the author assumes here also, not only that all are able and willing to accumulate capital by the cultivation of free land, but that the process is exceedingly easy and rapid. The simple laborer will be confronted with the alternative, either to cultivate the land by his unaided labor during a certain period — and perhaps a long one — or to cultivate it by borrowing capital and handing over to the capitalist a share of the greater produce obtained; but under such circumstances the laborer will be just as likely to choose the latter alternative, and thus to render interest possible.

Loria's theory of value on free land encounters an analogous difficulty. It presupposes an efficient competition in all pro-

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ducers, which means in all the actual or immediately possible possession of an equal capital. This defect in his theory of value is entirely apart from the fact that, like all others who make value depend on labor, he takes no account of the element of utility. This seems to me the weakest point in Loria's theory. He rests wholly on the assumption that the ability to accumulate is equal in all, and thus ignores the fact that, be the land free or occupied, the capital which contributes to production is enabled to insist on a return precisely because all do not accumulate, or at all events not in the same degree.

One of Loria's favorite ideas is that the capitalist, in order to keep up the rate of profit, is obliged to reduce wages to a minimum and thus prevent the laborer from accumulating a capital with which to work the inferior grades of unoccupied land. In answer to this it must be said in the first place that if unoccupied lands, or even lands cultivable by pure labor, actually do exist, they will be comparatively inaccessible to the workmen, on account of their remoteness from the places where the working population is concentrated; and most of the emigration to distant lands is furnished, not by workmen who have accumulated, but by workmen reduced to utmost penury. Further, all workmen will not be able to cultivate the land efficiently, especially in a new environment. And finally, to assume that every workman, as soon as his wages somewhat exceed his needs, will save and attempt to employ his surplus productively, — to assume that the workmen will always be able and willing to do this, is really to transcend the limits of legitimate scientific hypothesis. There is indeed here also an element of profound truth in Loria's conception; but it is an exaggeration of its import to make the existence of profits absolutely dependent on minimum wages.

It must furthermore be observed that the law of "complex labor," by which, according to Loria, value is fixed in the existing system, itself presupposes the reduction of wages to a minimum. As a simple matter of fact, then, in the countries where the capitalist régime prevails, are wages always reduced to a minimum? The answer must obviously be in the negative;

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for how can we practically determine the limits of applicability of the two different laws of value, each of which is to act according to circumstances?

But let us come finally to the consideration of that new form which Loria would substitute for the present social order, and thus insure welfare and equality. Despite all the ingenuity with which he has developed his plan, I am not satisfied of its feasibility. In the first place I cannot understand what meaning and what *raison d'être* can be assigned to private property in land, which Loria admits into his system but which does not insure any advantage to the landowner. It may be to a certain extent conceded that in the hands of a laborer capital may continue to exist without profit, since the laborer can at least enjoy the benefits resulting from the diminution of his exertions. But I really cannot understand in what sense ownership of land can be predicated of a capitalist who works in association with a simple laborer, and shares the produce with him equally, but who receives no return either for his capital or for the fact of his being the landlord. Much clearer seems to me that conception of small farms or cultivating ownership to which Loria in his first work attributes the power to "elide" rent: but such a system could not possess that great social importance which our author now ascribes to his "free association." Except through collective ownership of land, it is difficult to find a basis for the imprescriptible right of all men to occupy free land.

Loria observes that the free association, by insuring the comforts of life, would limit procreation and would thus make impossible the rapid increase of the population. But to whatever degree the growth of population can be held in check, it is easy to imagine a time in which all the lands which can be cultivated by pure labor, as well as those that require the employment of a limited capital, will be occupied by associations of capitalist-laborers and simple laborers. In such an event, either there would be an ever-increasing subdivision of property that would necessarily reach a limit, or else it would be necessary to restrict the right of occupation of the remaining lands. But those would be the very lands to require an ever-

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increasing capital; or in other words, it would be always more difficult to cultivate them, so that they too could not in any event be unlimited. The freedom of choice in the workman would become continually more restricted, his right of occupying the soil continually more meaningless, and profit, even if it did not exist at the outset, would gradually arise and would at last become solidly established, with the inevitable cessation of free land. Thus even if Loria's new social system were practicable, and if it could produce that complete social transformation which the author expects, it could not be definitive; for progress of population would render further reorganization inevitable. But apart from any consideration of economic order, Loria's principle that a stable and lasting social system can grow out of the present crisis, however attractive to the fancy, is nevertheless irreconcilable with the laws of evolution and progress, which tell us that continuous transformation is the law of existence, that motion is the essence of life and that immobility is death.

But enough of minute criticism. Let us, in conclusion, call attention to a single point in the general subject of method. Loria's method is peculiar and makes it a difficult task to classify him under the ordinary categories. He is thoroughly at home in deduction, and he makes use of all its resources in the marvellous theorizing that often suggests Ricardo. The first volume of his *Analysis* is a compact logical structure, in which the closely wrought mass of bold and original deductions commands our admiration, even when, through doubt of his premises, we are disinclined to accept his conclusions. But he does not, like the old deductive school, assume the immutability of economic laws. On the contrary, the premises from which he starts have for him not an absolute, but only a relative and historical value; he has recourse to history and the inductive method in confirmation of his deductions. His whole system is essentially and profoundly historical. And he pushes his historical interpretation of human facts even to the point of paradox, as when he calls logic itself historical and relative.

Now this combination of the two methods would indeed, if properly used, be most fruitful, and would be the ideal instru-

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ment of scientific research. But the mighty intellect of our author leads him into abuse of his instrument. As Salandra has already said, in speaking of another work of Loria's, no theory can be either legitimate or conclusive that seeks in history only a confirmation of its deductions, even though it be more or less successful in finding it. There are but two methods in science: either purely abstract speculation, or the minute and patient investigation of facts with a view to ascertaining their exact relations, without reference to preconceived ideas. These two methods may be made to go hand in hand in scientific investigation, each acting as a check on the other, provided that the preconceptions of deduction are not permitted to influence the conclusions of induction and the interpretation of facts. It is in neglecting this proviso that Loria has failed. However evident it may be that his careful study of facts has influenced his theories, it is impossible to avoid the suspicion that his theories have exerted a controlling influence, though unconsciously, on his study of facts. This suspicion finds a certain confirmation in the arrangement of his last work, where the study of history enters the field only in the second part, and for the purpose of corroborating the results already obtained by deduction. But more convincing evidence appears in the manner of using the mass of historical material which he has gathered from every age and every land; for in tracing the various phases of economic evolution his collocation of facts often betrays a serious disregard of necessary conditions of time and place, and the transformations he so eloquently describes thus assume the air of ingenious fancies rather than of historical reality.

But this, which constitutes beyond a doubt the most serious defect in all Loria's works, is at the same time an evidence of his greatness. It is characteristic of genius to burst asunder the bonds of method, to trust fully in its own strength and to follow the path itself so clearly traces. Such is the way of all great minds, of all creators of systems. Loria's work cannot be judged by the common standards of criticism. If we may demand of humbler authors a greater strictness of scientific

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method, Loria's conceptions are so lofty that we may accept them as he gives them to us, leaving to his followers the task of adapting them to practical conditions. Nor should undue importance be ascribed to the criticisms of detail which I have suggested, — rather to ease my conscience than because it was necessary, — or to the others that might be added. A perfect system cannot be created at a stroke. Even if criticism succeeds in discrediting a great part of Loria's theoretical assumptions and in overthrowing his special interpretations of facts, yet in those colossal works, of which the present paper gives but a weak and imperfect idea, there would still remain enough to impart a strong impulse to social-economic investigations. There would remain a multitude of novel suggestions, to furnish food for long and fruitful scientific discussion. There would remain a subtle and profound analysis of economic relations and of institutions that have hitherto been but superficially studied. There would remain a happy intuition of that unconscious power which lies at the bottom of man's physical activity and dominates his entire social life, often making him a blind tool of circumstances. There would remain, finally, a noble attempt to trace back not only all economic phenomena, but all social phenomena, to a single cause, and to deduce from this their entire evolution, — an attempt inspired with such originality and mental vigor and carried out with such acuteness of investigation and such comprehensive learning, that the critic is silenced and the philosopher is lost in admiration.

UGO RABBENO.

BOLOGNA, 1892.

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LOCAL SELF-GOVERNMENT IN JAPAN.

THE present position of Japan is unique in the history of the world. She alone of all the Oriental nations has turned her back on isolation and absolutism, and has set her feet in the path of Western civilization. Her progress within the last half century, especially since the revolution of 1868, has been remarkable. Step by step she has rapidly adopted and adapted the commercial, social, educational and political institutions of Occidental nations. In political matters, especially, has the progress of Japan been astonishing. She has developed a good system of local self-government and representative institutions, "in the direction of greater decentralization and broader popular prerogative." It is unnecessary and inadvisable, within the limits of this subject, to trace in detail all the phases of this development: it will be sufficient, perhaps, to note, that on April 14, 1888, a "law for the organization of cities, towns and villages" was promulgated, to go into effect April 1, 1889. The preface to that law is interesting, and reads as follows:

> Animated by a desire for the development of the advantages attending the communal union of the country and for the promotion of the welfare of our subjects in general, and recognizing the importance of maintaining and of further extending the old customs of inter-relationship between neighbors, and of protecting the inherent rights of cities, towns and villages by a new law, we give our sanction to the present law on the organization of cities and that of towns and villages, and order it to be duly promulgated.

At the time when this law went into effect the writer was living in Mito, a place of about 25,000 inhabitants, seventy miles northeast of Tōkyō, and the capital of Ibaraki *ken* (province). By notification issued February 2, 1889, this place, along with thirty-five other large places, was incorporated as a *shi* (city or municipality), and its government was reorganized under the new law. In outlining the contents of the law I shall be able,

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by occasional reference to the affairs of Mito, to illustrate its workings in municipalities.

The establishment of local self-government led to the introduction into the Japanese language of special terms for "resident" (*shi-*, *shō-*, *son-jūmin*) and for "citizen" (*kōmin*), and to a careful distinction between the respective rights and duties of the two. The "residents" of a city, town or village include "all those who have their residence in the city [town or village]," without distinction of sex, age, color, nationality or condition in life. They are entitled to a common use of the public establishments and property, and are subject to the duty of sharing the common burdens according to the law. A "citizen," however, must be "an independent male person," that is, one who has completed his twenty-fifth year and has a household; he must be "a subject of the empire, and in the enjoyment of his civil rights"; and for two years he must have been a resident of the given local division, must have contributed towards its common burdens and must have paid therein a "national land tax or two or more *yen*[1] in other direct national taxes."

The rights of a citizen over and above his rights as a resident are simply but comprehensively stated. They consist in the privilege of voting in the local elections, and of eligibility to the honorary offices. There is, however, a slight qualification of this seemingly universal citizen suffrage. Those whose citizenship, for reasons to be given later, is suspended, and "those who are in actual military or naval service" are disfranchised. Companies, however, and "other juristic persons" are entitled to the suffrage on similar conditions with individuals.

But when we come to consider the duties of a citizen, we find peculiar conditions. The citizen of a Japanese city, town or village is under obligation to fill any honorary office to which he may be elected or appointed; and, except for certain specified reasons, he cannot decline official service without being "subjected to suspension of citizenship for from three to six years, together with an additional levy, during the same period,

[1] A *yen* is equal to a Mexican dollar, or about seventy-five cents.

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of from one-eighth to one-quarter more than his ordinary share of contribution to the city expenditure." The valid reasons for declining official service are as follows: sickness; frequent absence from the locality on private business; an age of sixty years or more; pressing government service; the fact of having completed within the last four years a four-years' term in an unsalaried local office, or within the last six years a six-years' term as member of a local assembly; and any other excuse deemed valid by the local assembly.

Citizenship, when once acquired, is only retained so long as all its conditions continue to be fulfilled. It may be suspended during bankruptcy proceedings, during the pendency of any judicial proceeding which may result in the loss or suspension of civil rights, or during execution on account of delinquency in the payment of a tax. On the whole, citizenship seems to be regarded more as a duty than as a privilege; and the citizens best qualified to fill official positions of trust would find it much more difficult than in America to "keep out of politics." In the city of Mito, some of the leading merchants and lawyers are serving, or have served, with satisfaction in the city assembly.

The Administrative Bodies.

The administration of local affairs is more or less centralized. This is no more than might be expected in a country which, although now a constitutional monarchy, was but twenty-five years ago an absolute despotism. The development of local self-government must be gradual, and must proceed only as the people show themselves capable of administering properly the power bestowed upon them. We find, then, that the origination and administration of local laws devolves in the cities upon what is denominated a city council, and in the towns and villages upon certain chiefs, or mayors, and their deputies.

The City Council. This body in Mito consists of a *shichō* (mayor), his deputy and six honorary councilmen. In Kyōto and Ōsaka each there are two deputies and nine councilmen; in Tōkyō there are three deputies and twelve councilmen. The

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mayor of Mito, Mr. Hattori, who holds office for a term of six years, receives a salary of 500 *yen* per annum; while his deputy receives 300 *yen*. The mayor is appointed directly by the emperor from among three candidates previously selected by the city assembly, — a body entirely different in its functions from the city council, and of which I shall speak later. The deputy and councilmen are elected by the city assembly. It is not essential that the mayor and deputy be citizens of this city; but on entering upon their duties they become "entitled to citizenship." The mayor can hold no other salaried office nor any important position in a joint stock company.

The councilmen are elected from among the citizens who are thirty years old or over. They hold office for four years, or till their successors are chosen, and are eligible for re-election. Half the council retires every two years. Such persons as government officials attached to respective *fu* or *ken*[1] authorities, salaried city officials, public prosecutors and police officers, Buddhist priests and ministers of all other creeds, teachers of elementary schools, and "persons having the relationship to each other of father and son, or of brother," are not eligible for election as councilmen. In the case of very large cities, it is permissible, if convenient, to divide the city into *ku* (wards), each having a *kuchō* (ward-chief) and a deputy, and in a few cases a separate council and assembly. A quorum of the city council consists of the chairman (mayor), or his deputy, and one-third of the councilmen. A decision is made by a majority of votes, and, in case of a tie, by the chairman.

The functions of a city council are carefully defined in detail, but can here be only outlined. They include the preparation of subjects for deliberation in the city assembly, and the execution of the decisions of the assembly; the management of the establishments of the city; the administration of the city revenue, the ordering of receipts and of payments fixed in the budget and the superintendence of the management of the

[1] *Ken* means province, or prefecture, of which there are now forty-five in the empire; and *fu* (imperial city) is applied to Tōkyō, Kyōto and Ōsaka, which are a part of no *ken*.

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treasury and accounts; the care of the rights of the city and its property; superintendence and disciplinary authority over the city officials and servants, the *shichō* excepted; the custody of all papers and documents; the representation of the city in lawsuits; the imposition and collection of duties for use, fees, city taxes, *etc.*, *etc.* The mayor has the power of convoking the council, proposes the subjects for its deliberation, executes its decrees, and may suspend any decision of the council, subject to the final ruling of the *fu* or *ken* council. The city council has itself the right of suspending a decision of the city assembly, subject to the final decision of the *fu* or *ken* council.

It may be inferred from what has been mentioned above that it is the duty of the council to estimate "the probable amount of revenue and expenditure of the city for the next financial year," and to submit to the city assembly for deliberation a draft of this budget. Expenditures not contained in the budget, or that exceed the estimates in the budget, can be met only upon approval of the assembly. There is, however, a "contingencies fund," which may be used for unexpected expenses, without previous approval of the assembly; but this may not be applied to any expenses expressly negatived by the assembly. The city treasurer, moreover, who is appointed by the city assembly on the proposal of the city council, cannot make payments of money without an order of the council, and, even with such an order, cannot exceed what is especially appropriated in the budget, except in the case of the "contingencies fund." No member of the council may be treasurer.

Town and Village Chiefs. In towns and villages the administration of affairs is vested in a *chōchō* (town chief) or a *sonchō* (village chief), and a deputy. These officials are all elected by the town or village assembly, from among the citizens over thirty years of age, for a term of four years; and they may, according to the circumstances of the town or village, be salaried officials. Their election must, however, be ratified by the governor of the *fu* or *ken*. The duties which in the case of cities devolve partly upon the city council and partly upon the mayor or his deputy, all devolve, in the case of towns and villages, upon

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the *chōchō* or *sonchō* and his deputy. It will readily be seen that in one respect towns and villages fare better than cities; for, whereas the *shichō* is not necessarily a citizen of the city, and is appointed by the emperor, the *chōchō* or *sonchō* is elected by the town or village assembly from among the citizens of the locality.

The Elective Local Assemblies.

The City Assembly is a popular representative body to which occasional references have already been made. The number of members varies, in proportion to the population, from thirty in a city of less than 50,000 inhabitants to the maximum of sixty. The number is not, however, absolutely fixed; for it may be changed by a city by-law, provided it does not exceed the maximum. In Mito the number is thirty, elected by *scrutin de liste*. In large cities the electors may for convenience be divided into districts, or wards, from each of which a certain number of members may be elected; but the voters in any ward need not confine their suffrages to residents of the same ward.

There is, however, in all cities a curious division of the electors into three classes. The object of this division seems to be to give the highest tax-payers a power and a representation greater than what they might secure by mere proportion of numbers. To make the principles of this division as clear as possible, I quote the exact words of the law:

> The first class shall consist of those electors who pay the highest sums of direct city taxes, the total of which amounts to one-third of the whole amount of direct city taxes paid by all the electors. The second class shall consist, after excluding those belonging to the first class, of those electors who pay the highest sums of direct city taxes, the total of which amounts to one-third of the whole amount of such taxes paid by all the electors. The remaining electors shall compose the third class. . . . An elector the amount of whose taxes may fall into two classes, shall belong to the higher class. . . . Every class shall elect for itself one-third of the members from amongst the eligible citizens, irrespective of the classes. . . . When electoral districts are formed, the classes shall be formed separately in each district.

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The subjoined table, from statistics of Mito in 1891, will illustrate some of the above provisions.

Residents		25,134
Citizens[1]	First class	26
	Second class	138
	Third class	1021
	Total	1185
Council members		6
Assembly members		30

There are strict registration and election laws which it is unnecessary to treat at length. Suffice it to say, that only registered persons may vote; that none but voters may enter the "polling-station" during election; that "electors may not consult together or make suggestions to one another in that room"; that each ballot is not inscribed, as in the case of a ballot for a member of the Imperial Diet, with the voter's name, but is strictly secret; that voting by proxy is not allowed, except to "a company or some other juristic person." In the case of a tie vote, the senior in age is declared elected; or, if it cannot be definitely determined by age, it is decided by lot, drawn by the mayor (or his deputy), who is the chairman of the election.

All voters are eligible to membership in the city assembly, except those mentioned above as being disqualified from becoming members of the city council. I can find no provision tending to prohibit a man from being at one and the same time a member of both assembly and council. The assemblymen hold office for six years, are eligible for re-election and like the

[1] Inasmuch as the distinction between "citizen" and "elector" is, both in theory and in practice, comparatively insignificant, no notice is taken of it in the above table. In order to show what proportion of the electors actually cast their votes, the statistics of the Mito city election of April, 1889, are given:

	ELECTORS.	VOTERS.	PER CENT.
First class	57	49	87.7
Second class	263	209	79.5
Third class	915	661	72.2
Total	1235	919	74.4

It will be observed that, for some reason or other, the number of electors is smaller in 1891 than it was in 1889 at the first city election.

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councilmen draw no salary, but receive "compensation for the actual expenses needed for the discharge of their duties." The assembly is renewed by halves every two years.

A meeting of the city assembly may be convoked by the president of the assembly (who is elected annually), by the mayor, by the city council or by one-fourth of the members of the assembly. All meetings are ordinarily open to the public, but may be held with closed doors when it is deemed advisable by the president of the assembly. A quorum consists of two-thirds of the members; but a decision requires only a majority of the votes cast. Two enactments show a purpose to keep the members free from undue outside influence and from partisan pledges: it is laid down that a member may not "bind himself by the direction or request of any of his constituents"; and that a member may not vote "on a matter personally concerning himself, his parents, his brothers, his wife or his children." The members of the city council may be present in the city assembly to give explanations concerning matters under consideration.

The principal matters to be decided by the city assembly, besides the election of certain city officials by a secret ballot, are as follows: the making and altering of city by-laws and regulations; all matters involving expenses which are to be defrayed out of the city revenues; the voting of the budget, and of any outlay not included therein or exceeding the estimate; the giving discharge to the annual accounts of receipts and expenditure; the modes of imposing and of collecting all kinds of taxes; the alienation, purchase, exchange or mortgage of the immovable property of the city; matters relating to the disposition of the stock property; the incurring of a new liability or the relinquishment of an acquired right; the modes of management of the city property and establishments; the amount of the security to be required from city officials; and questions as to the undertaking of a law-suit or an arbitration concerning the city.

Town or Village Assembly. The constitution of a town or village assembly is, like that of a city assembly, based upon the population, but according to the following ratio:

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POPULATION.	MEMBERS.
Less than 1500	8
1500 to 5000	12
5000 to 10,000	18
10,000 to 20,000	24
20,000 or more	30

The disqualifications for suffrage and for eligibility and the registration and election laws are the same as in cities. But in the grouping of the electors according to the amount of taxes paid, there are only two classes[1] instead of three. Moreover, there are no "districts," as there may be in municipalities: but, in an extensive or thickly populated town or village, branch polling-stations with definite circumscription may be provided for the second class. It is, however, especially prescribed that where the application of the regular system is inconvenient, a different system may be provided by a town or village by-law.

The president of a town or village assembly is the *chōchō* or *sonchō*, who, as well as one-fourth of the members, has the power of convoking a meeting of the body. The rules, powers and functions of a town or village assembly correspond exactly to those of the city assembly.

In the law for the organization of towns and villages, there is an additional chapter, containing a series of provisions which, as not likely to be needed in the case of municipalities, are not contained in the law for the organization of cities. These provisions prescribe a method by which two or more towns or villages, by mutual agreement and with the permission of the superintending authority, may form a union for the common administration of affairs which are common to them. The uniting towns or villages are authorized to decide upon the constitution of the union assembly, the organization of the administration and the modes of providing means for the expenditure.

There is still another provision which is not contained in the law for the organization of cities, and which deserves special mention. It is prescribed that, by a town or village by-law, decided upon by the *gun* (county) council, "a small town or

[1] The municipal second class is omitted.

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village" may substitute for the town or village assembly a general meeting of all citizens having suffrage. I have not learned whether in any instance this provision has been carried into effect, but I think it not unlikely that there may be a few such localities. The matter is, at any rate, worth noticing, as an imitation, in theory at least, of the Anglo-Saxon town meeting and village assembly.

Local Taxation and Administrative Control.

The laws concerning city, town or village property and taxes are very minute in their provisions. Some of the most important features are as follows: The taxes may be imposed, first, in the form of additional percentages upon national and *fu* or *ken* taxes; and, secondly, if that is insufficient, in the form of special direct or indirect taxes. The persons liable to such taxation are all who sojourn in the locality for a period of three months or over, together with non-residents who own lands or houses or carry on some trade there (excepting peddlers and hawkers), whether they be individuals or companies. The following property is exempt from taxation: Grounds, establishments and buildings, used for direct public purposes and belonging to a *fu, ken, gun,* city, town or village, or other public corporation; *Shintō* and Buddhist temples;[1] government or public schools or hospitals; grounds, establishments and buildings devoted to scientific, artistic or charitable purposes; forests and waste lands belonging to the state, except when, in order to meet the expense of work benefiting the property, assessments are made thereon by permission of the imperial ministers for home affairs and for finance. Services in person or in kind, except such as are "of a scientific or professional nature," may be imposed for public works or for the maintenance of public peace and order. Taxes are imposed in monthly apportionment, and are due accordingly; but "in cases of extreme need" their payment may be delayed at the discretion of the city, town or village council.

[1] Christian churches are evidently taxable, unless devoted to "charitable purposes."

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The superintendence of the administration of cities, except in cases where the co-operation of the *fu* or *ken* council is required by law, falls in first instance upon the governor of the *fu* or *ken*, and in second instance upon the minister of state for home affairs. The superintendence of town or village administration, except in cases where the co-operation of the *gun* council, or the *fu* or *ken* council, is required by law, falls in first instance upon the *gunchō* (county chief), in second instance upon the governor of the *fu* or *ken*, and in third instance upon the minister of state for home affairs. The latter official has also the power to dissolve any of the local assemblies, but he must order a new election to be held within three months. In certain matters, the decision of a city assembly requires the approval of the *fu* or *ken* council, and the decision of a town or village assembly requires the approval of the *gun* council: in certain other matters, not merely local in interest, the decision of a city, town or village assembly requires the approval of the minister for home affairs; in still other matters, chiefly financial, the approval of both the minister for home affairs and the minister of finance is required. The governor of the *fu* or *ken* may exercise disciplinary authority over all city officials; and either of these officials, as well as the *gunchō*, over the town and village officials. In almost all cases, however, in which a higher authority is allowed to interfere, a final appeal may be carried to the administrative court.

The Japanese and the Prussian System.

To the well-informed student of comparative politics this survey of city, town and village government in Japan at once suggests the Prussian local-government system, of which the Japanese system has been called "a slavish copy." Nor is it at all strange that there should be such a marked similarity. It has long been an open secret in Japan that Germany had been set as the chief model for the "sunrise kingdom" in political matters. Count Itō, formerly prime minister, and author of the Japanese constitution, spent considerable time in Germany, where he became an intimate friend and a great admirer of Bis-

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marck. When he became the Japanese premier, he carried out in his own administration a "blood and iron" policy, and won the sobriquet of "the Bismarck of Japan." And since German elements predominate in the national constitution of Japan, it is not so strange that the same elements should be strikingly observable in the system of local government. The British and the American systems aimed at too much decentralization to be available in that stage of Japanese political progress. French influence was on the decline, and German influence was on the increase. Moreover, the Prussian system, modified in certain particulars to suit peculiar conditions, seemed the best adapted to a nation just emerging from absolutism.

Let me illustrate briefly and concisely the main points of resemblance.[1] In the first place, without going into the details of the rights and duties of residents and of citizens, we find in both the Prussian and the Japanese system the same general principle of a property qualification for suffrage. Likewise, the division of the electors of a Japanese city into three classes according to the amount of taxes paid is an exact counterpart of the Prussian arrangement. But the peculiar German principle of the division of the electors of a circle (urban or rural) into three "colleges" (representing, (1) the large landowners and tradesmen, (2) the smaller landowners and tradesmen and the owners of manors and (3) city capitalists), is not found in the case of Japanese towns and villages, where the electors are divided again, according to the amount of taxes paid, into two classes. The principle, however, of obligatory honorary public service is maintained in both systems, and the similarity extends, with exception in only one item, even to the details of legal excuses and punishments for refusal to accept office. In the composition of the administrative councils, we find again striking resemblances, but also more numerous differences, between the two systems; and we are impressed by the fact that, in the

[1] If the reader wishes to verify the following statements, or to see the similarity in details, he is respectfully referred to two articles by Professor Frank J. Goodnow on "Local Government in Prussia," in the POLITICAL SCIENCE QUARTERLY for December, 1889, and March, 1890.

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main, in the case of cities the German system, in the case of towns and villages the Japanese system, leans more toward decentralization. The laws concerning property and taxation are quite similar in the two systems: especially noticeable is the provision in both that local diets ought not, by the introduction of new taxes, to derange the national system of taxation, but should altogether, if possible, obtain the local revenue "by adding percentages to the direct state taxes." Finally, the Japanese system of reserving to the various central authorities a considerable measure of administrative control, particularly in financial matters, is a good imitation of the Prussian system; and this is undoubtedly a wise provision in Japan, where in many localities inexperienced and irresponsible legislation might work considerable damage.

We have now noticed the chief features of local self-government, as applied in Japan to cities, towns and villages. Although there are many enactments against which the democratic ideas of Americans would revolt, the system seems, on the whole, to be well-adapted to the present needs and capabilities of Japan. It is an interesting fact that Japan's political institutions have been developed from the top downward since the revolution. What another has written concerning the national constitution is so appropriate, in reference to local government, that I close by quoting his words:

> The genesis of the Japanese constitution, then, is not to be explained according to the categories of European experience. It was neither wrested by the nation nor withheld by the government. The people grew up to it, not the government down to it. Historically it does not signify a safeguard against oppression, but a means of bringing the methods of government into accord with the popular wish. It was not the surrender of inherited power by an autocrat or an aristocracy to a plebs; it was (in token, of course, rather than in fulfilment) the relinquishment to a people of power hitherto held in trust for them by a self-chosen body of their own number until they should arrive at political majority.[1]

ERNEST W. CLEMENT.

[1] John H. Wigmore in the *Nation*.

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THE EXERCISE OF THE SUFFRAGE.

IN the rivalry between the practical man and the critic in political matters, the latter seems just now to be attracting most attention; the man of affairs, who makes the best of institutions as he finds them, has not the same degree of public confidence that he had forty years ago, when the favorite theme of the orator was the perfection of the American system of free government. Ever since the end of Reconstruction there has been a most useful class of public-spirited men, sometimes in politics and sometimes outside, who have pointed out defects and suggested improvements. They have held the place which the prophets took in Hebrew history: their mission not to govern, but to arouse; their cry of "Woe unto them that are at ease in Zion!" has aroused the ill-will of the slothful, and has brought upon the critics the accusation of disloyalty to American institutions; but they have persevered, and to them is due the great success of two reforms. The first is the firm establishment of the merit system in the public service under the national government, which has been effected, not by administrators wishing to improve their office, but rather by the enlightened insistence of private citizens, acting on Congress. The second, which has had much more aid from men in political life, has restored the lost secret ballot to most of the states.

So aroused are the people by these two great achievements, that any reasonable suggestion of improvement in political methods finds a hearing. Schemes of minority representation, of election of senators or presidential electors by direct vote, of further limitation on legislatures — spring up everywhere. The suffrage — its protection and the manner of its exercise — is particularly inviting for such suggestions, since it is everywhere the subject of laws, constitutional or statutory; to improve the suffrage by making it more truly representative, is to rebuild

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the political structure on a better foundation. One plan, which has been very much discussed since it was suggested by Governor Hill of New York in 1889, is that of the so-called "compulsory voting."[1] This remedy seems so easy, its effect is described as so likely to heal the evils of American politics, that it seems ungracious to cling to the present system. Government in the United States, it is alleged, is a government of the minority: the minority of the voters elect the candidates; and a very small minority of this successful minority designate the candidates. What more natural than to pass a law which will cause the people to resume their control? If a considerable proportion of the voters do not exercise their right of suffrage, why not put a legal pressure upon them, to compel them to take the responsibility on their own shoulders? Then will the American system again become a "government of the people, by the people and for the people."

This suggestion, if analyzed, will be found to rest on three premises: that abstention from voting is a political danger, and a danger which increases; that a government may properly require an expression of opinion from its people; and that compulsion will correct the evils of neglect of voting. Not one of these premises is beyond dispute; they are all matters not so much of theory as of experience and of probability based on experience. A careful examination of the available facts will show that the evil is much less than has been assumed; that suffrage is a thing which ought not to be imposed, under any government; and that the effect of compulsion would be small, and rather against than favorable to good government.

Considering the money that is spent on statistical inquiry and the importance of the subject, it ought to be easy to find out how many persons are entitled to the suffrage in the United States, and then to compare it with the known number of those who vote. The process is however much like that of the

[1] See the governor's messages for 1889 and 1890; also the report of Judge Hawes to the Republican Club of New York, in the *Daily Continent*, March 2, 1891; a pamphlet by Edward M. Shepard, entitled "Compulsory Voting" (1891); an article with the same title by F. W. Holls, in the *Annals of the American Academy*, April, 1891; and an editorial in *The Nation*, April 28, 1892.

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astronomer who spends most of his time in eliminating causes of error and determining the personal equation of his observers; and some of the results must rest on estimates. The Massachusetts census of 1885[1] does contain an official statement for that state; the national census has furnished facts for the whole of New England in 1890;[2] and the publications of the earlier United States censuses abound in figures out of which some of the necessary data may be computed or inferred. At the end of this article will be found a tabulation of facts derived from these sources. Perhaps a study of the effect of conditions and exclusions on the suffrage will furnish the best basis for later arguments.

The most convenient point of comparison is a presidential election; here the votes are larger than at other times, and it is easier to obtain average results. A particularly convenient election is that of 1880, which fell in a census year, and thus gives a more exact basis of comparison.[3] The population of the United States in that year was 50,153,783. From this number we must make many successive deductions before we reach the number of qualified voters. First must come out the whole population of the territories and the District of Columbia. The remainder is 49,371,340. Of this number not quite half must be deducted for the women. In 1880 they had no vote in general elections in any state; nor does Wyoming now add more than 15,000 female voters.[4] The limited suffrage now granted to women in local matters in various forms by twenty-nine states does not affect the figures for presidential elections. Out of the 25,075,619 males, a little less than half, 12,568,891, were twenty-one years of age or more; the minors are of course everywhere excluded. The twelve and a half millions of possi-

[1] Census of Massachusetts, 1885, Population and Social Statistics, I, 103–113; H. G. Wadlin, Citizens and Aliens, reprint from Nineteenth Annual Report of the Massachusetts Bureau of Statistics of Labor, 121–225.

[2] Census Bulletin No. 175; April 8, 1892.

[3] Tenth Census, I, *passim*.

[4] The population of Wyoming in 1890 was 60,705. The figures for age and sex are not yet attainable, but probably one-third are women; and of the women two-thirds are of voting age.

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ble voters constitute a trifle over one-fourth of the population. Next to the age qualification comes that of citizenship. Exact figures are not here attainable, since the census of 1880 does not distinguish Chinese from negroes in its tables on this subject; but a close estimate of this irregularity is possible, and can be but a few thousands out of the way.[1] There appear to have been 3,056,000 foreign-born adults in 1880. The remainder, 9,512,891, are born citizens of the United States and are all capable of voting except as hereinafter specified. Of the foreign-born men a very large number are naturalized citizens. On this subject there are no precise figures except for New England. An elaborate count in Massachusetts in 1885 showed that 48.5 per cent[2] of the adult foreigners were naturalized in that state.[3] In the large cities the proportion is greater; where the Irish predominate it is greater. On the other hand several races are indisposed to seek naturalization: the 90,000 Chinese are not permitted to become citizens; the British Americans, English, Italians, French Canadians and Portuguese naturalize very slowly; probably the same might be said of the Hungarians, Poles and Bohemians. It is therefore safe to accept the Massachusetts proportion as rather above than below the average; the fact that naturalization is necessary before a man can vote probably stimulates naturalization in that state. If a little more than one-half the total adult foreign-born men be taken, we may add 1,533,891 to the list of voters. In addition to the million and a half persons who in 1880 had thus shown their attachment to the constitution, there was a multitude of aliens who, by the laws of the state in which they resided, were entitled to vote because they had filed their declaration of intention to become citizens. A careful estimate puts the number at

[1] Tenth Census, I, 647. The white foreign-born male adults in the states were 2,984,041; to this should be added an estimate of 71,959 adult Chinamen in the states. The minor Chinese population is not summarized in the table.

[2] Wadlin, p. 128. 98,730 naturalized to 99,131 not naturalized.

[3] For 1890 the federal census (Bulletin No. 175, p. 19) gives the percentage as 43.7, the same as for all New England. So serious a discrepancy shows that both authorities cannot be right.

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300,000.[1] The former exclusions because of race no longer prevail, except that Chinese are expressly excluded in Oregon and California; but as Chinamen born in this country are insignificant in number, the exclusions necessitate no additional deduction.

As to the three classes of legal voters — native born, naturalized and declarants — the relative proportions vary much from state to state. None of the eastern coast states admits declarants to the suffrage, but the proportion of foreigners to the whole population is so much greater in these states, and especially in the cities, that the number of foreign voters is often alarming. Only an eighth of the people of the United States are foreign born; but of the men of voting age one-fourth are foreigners; and as long ago as 1875 sixty-five per cent of the adult men in New York were foreign born. The proportion of men in middle life and above is even more startling. Of five hundred men above thirty-five whom the New Yorker meets while crossing City Hall Park any day, four hundred are certainly foreigners born.

11,375,891 persons were *prima facie* entitled to the suffrage in 1880; but out of this number large deductions must be made for classes of persons disqualified by various state laws. The effect of these exclusions is nowhere summed up, but it may be inferred from the Massachusetts census of 1885, in which some of the items are set down for that state, and from the recent bulletins of the eleventh census. First come disqualifications based on property or natural conditions. There were 4129 adult males in Massachusetts in 1885 who were paupers.[2] In many states there is no legal restriction on paupers voting; and the total disfranchisement for this cause cannot exceed 60,000. The actual possession of property is no longer a condition of voting anywhere in the Union.[3] In 1880 it still affected

[1] The white foreign-born adults in the fifteen states allowing the practice were 874,834 in number. Of these about 440,000 have been included under the previous allowance for naturalization. Certainly 140,000 have filed no declaration.

[2] This number is taken from a calculation made for this article under direction of Mr. Wadlin.

[3] Except in municipal elections in Providence, Rhode Island.

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foreign-born persons in Rhode Island, and may have cut off 5000 votes. A tax qualification stood in the constitutional laws of six states in 1880, and may have prevented 50,000 votes. It now appears only in Delaware and Florida. Throughout the country the tendency is to require no property qualification, not even the ability to support oneself or to live without appeal to public charity.

It is otherwise with the moral and intellectual limitations on the suffrage. Prisoners in their cells cannot enjoy the educating influence of the ballot; and there were at least 60,000 such in 1880.[1] State constitutions usually disqualify persons from voting if they have committed infamous crimes. In practice the restriction has very little effect. An allowance of 15,000 for persons whose votes would be refused from this cause is ample. Then comes the considerable class of insane. The number of adult men in asylums in 1880 was probably not far from 40,000,[2] besides many thousands of defective and weak-minded persons. A much more important mental disqualification unfortunately has not yet been widely applied; illiterate persons were in 1880 excluded only in Massachusetts and Connecticut. The effect was to debar from the suffrage about 35,000 persons.[3] The clause of the new Mississippi constitution, requiring the voter to be able "to read the state constitution, or to give a reasonable interpretation of it when read to him," is likely to be a model for other states, and thus to increase this kind of disfranchisement.

Another legal disqualification is brought very effectively into operation by the constant movement of population in the United States. In order to vote, a man must have resided in the state for a period varying from three months to two years; and in the district in which he votes a specified number of days or

[1] The number of adult prisoners in Massachusetts in 1885 was 2950, according to special figures furnished by Mr. Wadlin. Witnesses and others under detention would increase the proportion.

[2] Eleventh Census, Bulletin No. 62.

[3] Wadlin in his Citizens and Aliens, p. 128, shows in Massachusetts 26,212 "polls, not voters." Of these 22,000 may be estimated as excluded by the education clause.

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weeks. To say that one voter in a hundred has not acquired a voting residence in the district where he lives is an understatement. An allowance of 110,000 will not cover the number who thus actually lost their vote in 1880.

Making these deductions for unnaturalized foreigners, paupers, criminals, defective persons and non-residents, we reach a safe approximation to the number of actual legal voters in 1880; it was 11,000,000. Deducting 9,210,920, the total presidential vote of that year, and we have about 1,800,000 voters unaccounted for; these are the stay-at-homes, and they are about one-sixth of all the voters. A recent writer has urged that the abstentions ought not to exceed one-twentieth. A very brief consideration will show that when five-sixths of the voters come to the polls, no compulsory system could much increase the number. There are few churches, clubs, societies or lodges in the country which have an attendance of five-sixths, even once a year; there is not an army in the field which can put five-sixths of its men in the ranks for a battle. There is not another country in the world which has ever exhibited so large a proportion of actual voters as the United States. Germany is a very intelligent country—a country where the roads are good, changes of residence are infrequent and political interest is high. In the German election of 1887 the number of votes cast was but 77.5 per cent of the number of voters, a little more than three-fourths.

Yet the absence of one-sixth is a serious evil if it can be avoided; there are many reasons for it, but want of interest in the elections is one of the smallest of them. Old men have a proverbial dislike of showers, cold air, confusion and fatigue. There were in 1880 about 490,000 men of seventy years and upwards, of whom certainly 400,000[1] were voters; the number of those who actually voted is probably balanced by younger men who felt the feebleness of age. Next comes the army of sick. If the disbursements of sick-benefit companies are evidence, men in ordinary health average one week's sickness a year. It

[1] Wadlin, p. 191, shows that in Massachusetts in 1885 there were about 25,000 voters above seventy, out of a population of 1,942,111.

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is fair to deduct two per cent of the men between twenty-one and seventy on this ground. Another very large body is made up of those away from home on election day; this class includes travellers for pleasure, commercial travellers, students, many railroad and steamship employees, sailors and workmen employed at a distance from home. Making due allowance for the non-naturalized persons among them, a deduction of two per cent, one man in fifty, should be made. A chapter of pure accidents accounts for about one per cent more: sprained ankles, sudden telegrams, importunate callers, defective registration, forgetfulness. At least one man in a hundred who means in the morning to vote finds that the polls have closed without his vote. The discrepancy between the registration and the vote in states like New York, in which re-registration is necessary every year, roughly measures the accidents of all kinds: the process of registration is vexatious; the man who undergoes it intends to vote, at least in presidential years; yet the difference is often ten per cent.

Another fundamental error in regard to abstention is the assumption that every voter who wishes to vote has the opportunity. In 1880 the negroes of voting age were 1,400,000; in almost every state in which they were numerous the ratio of votes cast to voters was lower than elsewhere. In Mississippi, having almost exactly the population of New Jersey, and almost no foreigners, the rate was less than half that in the latter state. No one believes that this was the result of indifference. At the same ratio as in the North the number of votes in the South would have been 1,000,000 greater. It is not extravagant to suppose that 560,000 more votes would have been cast if there had been no restraint on the blacks. Where intimidation is not employed directly, as in the South, it is often applied indirectly; nor does even the Australian ballot entirely protect a workman from a conviction that not to vote at all may be the safest form of vote. The Australian ballot leads to one of the most dangerous and subtle forms of bribery — that in which a man is paid to withhold the vote he would naturally have given.

An appreciable number of votes is lost through technical

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objections to their reception. In 1884 a young lawyer in New York City, on offering his vote, found that by the error of the registration officer he had been registered in the wrong precinct. He spent the rest of the day in securing his right: a considerable portion was passed in ranging the city, collecting evidence; another portion in finding a judge who would issue a *mandamus;* and a few minutes before the polls closed he voted. But where he succeeded a hundred men must have failed. The ingenious nine-ballot-box system in the South furnishes an easy mode of shutting out unwelcome votes; and the total vote in New York in 1891 was diminished by rejecting ballots that had a turned quad upon them, or a misprinted endorsement.

The total loss of votes due to old age, illness, absence from home, accident, intimidation and miscounts is estimated to be about 1,500,000. Deducting this number from the 1,800,000 previously unaccounted for, and we have left about 300,000 voters who might have been expected to vote, but felt no sufficient interest. This is about three per cent of the voters and a little more than one-half of one per cent of the population.

The percentage of votes cast for the whole Union is considerably exceeded by that for many of the separate states: thus New York in 1880 reached the then unprecedented figure of 1,104,605 votes, — nearly twenty-three per cent of the whole population, and not far from ninety-five per cent of the voters. Could any system of compulsion produce a better result? One of the current axioms of reform in politics is that the people are losing interest in the elections. All propositions, lemmas and corollaries based on that axiom had better be revised; for the truth is that the proportion of voters has increased pretty steadily for a century, and that the proportion of votes to voters has grown ever since the first spirited election of 1840. Comparison is difficult, because the negroes had practically no share in the elections till 1868; and the influx of foreigners has increased the total population faster than it has increased the voting strength, so that the proportion of possible votes to total population is diminished. In the election of 1888 the vote

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reached 19.2 per cent of the population; and the indications now are that it will be still larger in 1892. In many states there will be no stay-at-home vote worth considering.

When we come to state elections the difference is painful; even when simultaneous with the national voting the vote is a little less. When the two do not come together the state vote in New York is about three-fourths as large as the national. The presidential vote of 1888 was cut down by 259,425 in 1891; that is, out of ten voters who were out at the first election, three stayed at home in the second. Municipal elections, if held at a different time from other elections, show an even greater difference: in New York City, in 1888, the vote was about 18 per cent of the population; in 1890, a local election chiefly, 11.6 per cent; in 1891, for governor, 13.2 per cent.

There is, however, one encouraging feature of state and local elections; interest in them also has slowly increased. In colonial times the suffrage was so restricted that a vote one-fourth as large as would now be cast by the same population was phenomenal. Thus in Massachusetts, when the long struggle over a new constitution culminated in the popular vote of 1780, there were only about 15,000 votes in a population of 350,000, or scarcely four per cent.[1] In Connecticut, out of 200,000 people in 1775 there were 4325 votes, a little over two per cent.[2] Comparing the votes in state elections in Massachusetts for forty years, it is evident that there is a steady increase. In 1855 the gubernatorial vote reached what was then a flood tide of 11.9 per cent of the whole population; in 1890, with more than 130,000 unnaturalized foreigners to be deducted from the possible voters, the proportion of voters to population was 12.8 per cent. Both Minnesota and Pennsylvania in 1890 cast the heaviest proportional vote for governor in their history. In New York and Boston the participation in municipal elections seems rather larger than ten or twenty years ago. Nevertheless there were about 96,000 wilful absentees in New York in

[1] A. H. Bullock, in Proceedings of the American Antiquarian Society, new series, I, 216; Dexter, Estimates of Population, p. 8.

[2] Dexter, Estimates, p. 13; Connecticut Colonial Records, XIV, 4; XV, 413.

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1891, or more than a fourth of the voters, and about 20,000 in Boston. Why are they so neglectful?

One answer is that much more care is taken to get out the vote in presidential campaigns. Efforts are made to arouse enthusiasm once in four years, which it would be impossible to make every year. The simple truth is that the voter is not interested so much in what affects his welfare as in what excites his imagination; he overcomes obstacles and sacrifices convenience and private interest when he thinks the object is of great importance; and he has his own standards of importance. Whenever the voter, while caring for a good president, really cares more for a good mayor and a good governor and a good legislature for the commonwealth, he will vote more readily. It is true that the national election is a simpler affair and presents fewer complicated issues; that unknown and corrupt men are less likely to be opposed to each other, leaving to the voter but a choice of evils. Nevertheless, when the people see a great principle at stake in a state election, the vote is about as large as in presidential years. Such was the case in Pennsylvania in 1890.

That abstention is a very serious evil, except in presidential years, is not to be denied; that compulsion will remedy the evil is not so clear. The argument against the power of the state to compel the deposit of votes is best summed up in Falstaff's declaration: "If reasons were as plenty as blackberries, I would give no man a reason upon compulsion." Falstaff recognizes the right of the state to restrain and to forbid, — "the lion will not touch the true prince," — but objects to *mandamus* government. There are, in the United States, surprisingly few things which a man *must* do. The usual principle of law is negative; if a man fail to observe prescribed legal forms, his action binds nobody. No man is obliged to make his will, however great the advantage to the state from his making it; but if he make it without two witnesses, it is no will. No man need register before an election, but in New York he cannot vote without that preliminary. The most important case of compulsion is the collection of taxes; and the experience of the world is that the more strictly taxes are

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laid on tangible things and the less they fall on mere paper evidences of possession, the more successful is the tax-gatherer. The state has a right to tax a man simply because he has a poll, and to use compulsory means of collecting such individual taxes; but to require him to use the brain within the head, is hardly within the scheme of government. Another forced public duty is military service. Every able-bodied man is liable to militia duty in his state, and liable to be called into the service of the United States in case of war; but, except in one great crisis, the nation has depended chiefly on volunteers; and even the "universal military service" of Germany does not mean that all the able-bodied men in the empire are required to turn out once a year. The acceptance of public office is in some states obligatory, as it very frequently was in the colonies. As yet, however, no state has accepted the old Greek system of the *Choregos*, compelling a rich man to fill an office requiring large expenditures out of his private means; and few states longer insist on compulsory public-service of any kind. Service in the *posse comitatus* when called upon is closely akin to militia duty. The nearest parallel to obligatory voting is obligatory jury duty. Lawyers know how far the obligation is effective, and how far it secures good juries. Here again, as in military service, the principle is not of universal duty, but of selection from among those liable. Compulsory education would seem at first sight to have a very close resemblance to compulsory voting; but the obligation on the parent in this case is much more akin to that of clothing and supporting children, which ceases when children become old enough to do their own thinking.

The limitation of enforced services to the brief category enumerated shows the practice of the country. Law, custom and common sense agree that any requirement shall not extend from acts to opinions. "I can make a nigger work," said a master to Olmsted, "but I can't make him think." The same principle applies still more strongly to free men. Voting is simply an expression of preference. We have in our country the same kind of an interest, though vastly greater in its range, that stockholders have in a corporation. Haphazard votes have

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less value because they represent less thought or less conviction. It has become customary to look on the ballot as a sort of talisman, which somehow endows the possessor with wisdom. It does raise a voter if he thinks about his vote; but the education consists in calling out his self-reliance, not in training him to do a disagreeable duty. It would be much more reasonable to require all aliens to file a declaration of intention to become citizens, on the ground that the purpose must educate them. Compulsory voting seems to rest upon much the same principle as the compulsory attendance of mature young men in a college chapel; they are supposed by constant practice of religious observances to acquire a habit of thinking on religious subjects, which will strengthen their characters. It does not work that way; nor can you by law compel a man once or twice a year to form an intelligent opinion on public questions. There is too much "mollycoddling" of voters already, — too many attempts to protect them from their own want of reflection. The people of the great cities would govern themselves better if nobody had power to step in to save them from themselves.

Beyond the question whether the danger is serious and the question whether compulsion is desirable, comes the question whether any effective compulsion can be devised. No one suggests that the delinquent voter shall be brought by main force to the polls, like the boys at Dotheboys Hall to their brimstone and treacle. The so-called "compulsory voting" means, of course, only the providing of disagreeable consequences if a man fail to vote. The favorite penalty suggested is a money fine. This is not a new idea; instances in colonial history are not infrequent; the penalty ranged from sixpence to two hundred pounds of tobacco. The records of Southampton, Long Island, contain the following account of a political gathering of the time:

> Iune 3, 1654. At a general court. . . .
>
> At the said court there being a great disorder by reason of ye departure of some of the members thereof before the adiournment or dissolution of the saide cort, the major part of the Cort being left, and troubled at the said disorderly carriage, especially considering that the said

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departure was before the full consumation of what was then agitated and acted, the said major part left determine ye cort shall be called, and all absent that departed as aforesaid shall pay according to former orders, and that Thomas Halsey shall pay moreover 5s. for his contemptious carriage vnto ye cort at his departure.[1]

A similar vote of the town of Lancaster, Massachusetts, of 1669, reads as follows: "Eurie settled inhabitant atend the publique meeting of the town eurie yeare the first Monday in februarie by 10 of the cloke," on penalty of two shillings. The Maryland statute of 1716 has a very stringent rule as follows:

All freeholders, freemen and other persons qualified to give votes in the election of delegates shall and are hereby obliged to be and appear at the time and place appointed for elections to be hereafter had or made of any delegates, burgesses and citizens to serve in any Assembly for this Province, under the penalty of one hundred pounds of tobacco for every person so qualified as aforesaid, neglecting to appear [half to go to the informer in the county court].[2]

A Plymouth statute of 1660 enjoined voting in the following terms:

Whereas the court hath taken notice that divers of the ffreemen of this corporation doe neither appeer att courts of election nor send theire voates by proxey for the choise of majestrates &c It is enacted by the court and the authoritie therof; that whosoever of the ffreemen of this corporation; that shall not appeer att the court of election att Plymouth in June anually nor send theire voate by proxey according to order of court for the choise of Gou^r Assistants Commissioners and Treasurer shalbee fined to the collonies vse the sume of ten shillings for every such default; vnlesse some unavoidable impediments hinder such in theire appeerance.[3]

Massachusetts appeared to expect but did not require voting.[4] The Georgia constitution of 1777 provided that

every person absenting himself from an election, and shall neglect to give in his or their ballots at such election, shall be subject to a penalty

[1] Records of Southampton, 102.

[2] Bacon's Laws, 1765 (no paging). For this and the other colonial statutes I am indebted to the unpublished researches of Mr. David E. Spencer on colonial suffrage.

[3] Plymouth Colony Records, XI, 84, 127, 157.

[4] Massachusetts Colonial Records, I, 166, 185, 277.

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not exceeding five pounds; the mode of recovery, and also the appropriation thereof, to be pointed out and directed by act of the legislature: *Provided, nevertheless*, that a reasonable excuse shall be admitted.[1]

But the earliest and latest laws on this subject were passed in Virginia. Eight different acts appear. The first was in 1646, as follows:

That what freemen soever, haveing lawful sumons of the time and place for election of Burgesses, that shall not make repaire accordingly, Such person or persons vnles there be lawfull cause for the absenting himselfe shall forfeit 100 lb. of tob'o for his non appearance, * * * * the said fine to be levyed by distresse in case of refusall.[2]

In 1705 it was enacted

that after publication of writs and time and place of election of burgesses as aforesaid, every freeholder, actually resident within the county where the election is to be made, respectively shall appear accordingly, and give his vote at such election, upon penalty of forfeiting two hundred pounds of tobacco to such person or persons as will inform and sue for the same: To be recovered, with costs, in any court of record within their dominion, by information, bill, plaint, or action of debt, wherein no essoin, protection, or wager of law, privilege, or any more than one imparlance shall be allowed.[3]

The last acts of the kind appear to be the Virginia statutes of 1785 and 1788. The latter merely applies the principle of the former to elections for members of Congress.[4] The former provides an elaborate system of compulsion.

Any elector qualified according to this act, failing to attend any annual election of delegates or of a senator, and, if a poll be taken, to give or offer to give his vote, shall pay one fourth of his portion of all such levies and taxes as shall be assessed and levied in his county the ensuing year: And for discovering such defaulters, the sheriff or other officer taking the poll, shall within ten days after the said election, deliver to the clerk of the county or corporation court, as the case may be, a copy of the poll by him taken, to be kept in his office, who shall suffer any can-

[1] Poore's Charters and Constitutions, I, 379.

[2] Hening, I, 334. The act of 1662 is similar. *Ibid.* II, 82.

[3] Hening, III, 238; substantially repeated in 1762 and 1769; *ibid.* VII, 521, VIII, 308.

[4] Hening, XII, 655.

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didate or elector to take a copy thereof, and the said clerk is hereby directed to cause a copy of the same to be delivered to the next grand-jury, to be sworn for the county or corporation, who shall be charged by the presiding magistrate to make presentments of all such persons qualified to vote residing in the said county or corporation, who shall have failed to have given their votes at the said election agreeable to law.[1]

These precedents are of very little value to us: with few exceptions they apply to attendance at a deliberative meeting, where opinions were to be openly expressed and controverted, where a man's argument was as much desired as his vote. The requirement to vote for representatives appears to have been applied only in Plymouth, Maryland, Georgia and Virginia. The number of persons affected was very small. The most crowded town meeting ever held in Boston before the Revolution was that which assembled in 1734 to consider Peter Faneuil's offer of a market-house: the votes cast were 916, out of a population of 15,000;[2] in 1888 the vote of the seventeenth ward in Boston, having a population of 15,000, was nearly 3000. Yet the experience of the colonies in compelling their few voters does not seem so happy as to encourage the application of the system to our more difficult conditions. All these restrictions have long been abandoned. A money fine is not the most successful means of holding the community up to its duties; people get into a reckless feeling that it is right to do the thing prohibited, if one stands ready to pay the fine. The Beekman, Chilton, Massachusetts[3] and Hawes bills seek to remedy lack of interest in voting by a system which must fail for lack of interest in prosecutions. It is idle to expect that the community which will not vote will punish men for not voting. The system of fines works well when applied to minor but positive offences; even the Lombards, who carried out the principle to many fanciful details, kept fines for deeds of commission. If a man maimed another, he paid "for the little finger iv solidi; for the middle finger ii solidi; for the thumb viii solidi"; there was

[1] Hening, XII, 122. *Cf.* Jefferson's Report of the Committee of Revision (1784) p. 1.
[2] Boston Town Records.
[3] The text of these three is given by Holls, 41–43.

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no fine for failing to shout and clash the shield at the election of a king. The state has a right to require of the citizen any service necessary to national preservation; but the state is equally bound not to turn the individual into a machine.

A second and very ingenious penalty has been put into operation in Illinois. The names of persons who fail to vote are put on the jury lists. Apparently nothing could be more automatic and effective. The man who shirks the unpleasant duty of spending an hour in casting his ballot for a public officer, may spend six weeks in deciding whether that officer does his duty. However disagreeable this might be for the voter, it is unfortunately even more disagreeable for litigants and counsel. The system involves the deliberate selection of men who neglect one duty, to perform a more important duty. It obliges men who are too feeble and sick to vote to show cause why they should not inhabit a jury room. And again, it furnishes an easy path for those who prefer jury duty to more serious tasks. A professional "heeler" has his disadvantages; but a professional juryman is a worse evil. Possibly it might be a suitable punishment for a man who refused to accept jury duty, to make him vote a straight ticket at the next election; but jury duty is not a suitable reward or a suitable punishment for the delinquent voter.

A third suggestion for sharpening the conscience of the voter adopts the principle of the Mosaic law: "The soul that sinneth, it shall die." The voter who once omits to vote shall not be allowed to vote thereafter until he shall have purged himself by paying a fine. The proposition has been ably set forth by Mr. Holls, who supports it with great ingenuity of argument. It is undoubtedly a better system than that of fines or jury duty; it attaches a disagreeable and perhaps a permanent stigma to the neglect. But as a means of getting out a larger proportion of the voters or increasing interest in public affairs, its efficacy may be doubted. Perhaps the best way to discuss it will be to analyze the reasons for the stay-at-home vote, and to see how far each class of delinquents would be diminished by the measure.

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Bad weather keeps many thousands of voters at home; compulsory voting would amerce or disqualify thousands of men who are kept away by bad roads, or by the rising of the Southern streams, along the beds of which highways are often constructed. The voter who has a cold or who justly fears a cold, or whose wife justly or unjustly fears it, will be debarred. I doubt whether fear of disfranchisement or fine would greatly diminish any of the bad-weather classes.

Another group is made up of those who will not mix in "dirty politics"; who think all parties "packs of scoundrels," and who want to be left to their comfortable private life. These men are the stock illustrations of what may be called the Sunday-school literature of the subject, — the awful examples held up to the young man who intends to go fishing on election day. That such persons constitute one in a hundred of the voters is hard to believe. If disfranchised for not voting, how many additional votes will be got, and how many dollars for the public treasury?

Much larger numbers neglect to vote because they know their party to be in a hopeless minority, and that their votes can make no possible difference. One would expect to find many thousands of such men in the absolutely sure states, such as Texas and Vermont, about the vote of which in 1892 there seems no present doubt. The Democratic majority in Texas is over 100,000: but the minority keeps up a state organization; and the vote of the state is little smaller in proportion to the population than that of Virginia. All the Southern states have a small proportional vote; the congressional vote of Tennessee is about half that of Iowa, which has about the same population and the same industries. In Vermont, which has never gone anything but Republican since there was a Republican party, the majority takes pride in displaying its own size. The stay-at-homes are about as numerous in close as in sure states, particularly if the opinion gets abroad that one party is reasonably sure to win. Since party managers aim to "poll the full strength of the party" they would probably favor some measure of compulsion. Here comes in one of the serious dangers of the disfran-

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chisement-fine system. The absolutely indifferent voter will lose the vote which he never used; the careless but honest voter will lose the vote which he would have used sometimes; and the careless and dishonest voter will have his fines paid for him, and he will vote, and he will vote "straight." Massachusetts found the state of things so demoralizing that last year the poll-tax requirement was struck out of the constitution. A state which adopts the proposed system will eventually do likewise.

One large class of abstainers would probably be reduced by such a law; it is the men who are public-spirited and who know that they ought to vote, but who are too busy and who think their duty will be performed by some one else. If such men voted without much regard for party when they did go to the polls, they might frequently change elections; in fact, however, their number would probably only swell the total vote on both sides without much altering results.

In the few states in which registration is renewed by the voter every year, men sometimes abstain from registering to escape jury duty; for the jury lists are often made up from the register. This number is said to be considerable in New York City. Fines, if applied, might bring out their vote; a different system of selecting candidates might have the same result.

Next comes the class, unhappily too large, of those who neither know nor care anything about the election, the candidates or the result, but who do care to sell their votes. The hope of the reformers seems to be that such men will get so deeply in arrears of fines that they will disappear out of politics from sheer inability to pay their way back to the suffrage. Is it likely that a man who looks on his vote as a piece of personal property will forfeit it by neglect? Or if he does, is it likely that where there is money to pay for his vote there may not also be money to pay his fines? The black spectre which affects all questions of politics in the South comes in here also. Nobody who understands the condition of the negro can wish that he be incited to vote where he voluntarily refrains. But the negro usually votes if he can; to prevent him from voting and then to disfranchise him because he does not vote, is not likely to improve the rela-

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tions of the races. The proposed scheme must have the effect, North and South, of putting a pressure to vote upon the most ignorant and debased.

This brings us to the last and most important class of absentees, those who deliberately withhold their votes because they think that they can exert more influence on public affairs in that way than by casting them. The great evil of the whole suffrage system is not that votes are few, but that they are unconsidered. If a commission went from house to house to get votes, so that there were no trouble to the voters, nineteen men out of twenty would vote their usual party ticket. Any unusual defection of voters means a deliberate lesson to party managers. A similar lesson might be taught by voting for some third-party candidate, or by voting for a good candidate on the other ticket. As a matter of fact there is not in the United States one voter in fifty who will do either under any circumstances. Neither party feels more confidence in the nominating apparatus of the other side than in its own. American voters rarely pass from one party to another; they depend on the silent but effectual protest of leaving their party in the lurch. The absentee vote of the opposite party permitted the election of Governor Cleveland in New York in 1882 and of Governor Pattison in Pennsylvania in 1890. To compel men to vote against their will is to tighten the control of party managers. The defect of the compulsory system, as of many proposed reforms which are expected to restore the Eden period of politics, is that it does not go to the root of the matter.

Honest voters are indifferent or refuse to vote because they feel their impotence to affect their own party management; yet they support their party management because experience shows that the men who fight it must make great exertions and sacrifices, or be set out of politics; and further because permanent political results can be brought about only through strong and persisting parties. Compulsory voting supplies no new motives, and would not alter those political habits of the American people which are the real evil. Compulsory voting cannot create interest in local affairs, or break up the practice of

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adhesion to unfit leaders. It would not increase the vote one per cent in presidential years; and the imposition of fines or disfranchisement for omission is so unusual in the American system that it is not likely to be enforced as to state and local elections.

Is there not already a sufficient remedy for the stay-at-home vote? The man who is absent from elections is still a voter, a resident, a man: he has important interests in any election; and if he fails to vote upon them, it is because he is persuaded that his vote will accomplish nothing that will not come about otherwise. If appeals to patriotism, love of order and decency be not sufficient, let the voter suffer in the manner suggested by the quaint resolution of Lancaster, Massachusetts, in 1669. In addition to a nominal fine the neglectful voters were to lose "their voate in such transactions of the town, that may be acted by the town in their absence." Amplifying the principle of self-interest, the true remedy may be formulated thus:

A Bill

to provide a suitable punishment for the failure to vote.

Be it enacted, *etc.*

Section 1. On and after the passage of this act, it shall be the duty of every person duly qualified, to vote at every election, national, state or municipal.

Section 2. If any person shall neglect the said duty he shall be disqualified from voting at the election at which the neglect occurred, and no longer.

Section 3. Any qualified voter who fails to vote at any lawful election shall nevertheless be bound by the result of said election as though he had participated therein; and all persons chosen to office at such election shall exercise the duties of their office as though he had voted; and all statutes passed by persons so elected, acting as a lawful legislature, shall be binding upon him.

If it be objected that this is simply a statement of the present practice, the writer makes no reply.

Albert Bushnell Hart.

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TABLE I.—LEGAL VOTERS COMPARED WITH THE POPULATION.

	Massachusetts.			New York.			New England.		United States.		The States.	
	Boston. 1885.	State. 1885.	State. 1890.	City. 1880.	State. 1880.	State. 1890.	1880.	1890.	1880.	1890.	1880.	1890.
Total population	390,393	1,942,111	2,238,943	1,206,209	5,082,871	5,997,853	4,010,527	4,700,795	50,153,783	62,622,502	49,371,340	61,908,906
Males above 21	117,713	572,726	665,009	336,137	1,408,751	1,769,649	1,144,919	1,410,191	12,830,349		12,568,891	*15,850,000
Per cent to total population	29.9	29.5	29.7	27.9	29.7	29.5	25.6	30.	25.6		25.5	*25.6
Native born	66,761	366,499	407,915		872,153	1,084,187	835,979	958,381	9,757,862		9,512,891	12,050,000
Foreign born	50,556	206,227	257,094		536,598	685,462	308,940	451,903	3,072,487		*3,056,000	3,800,000
Per cent of for. born to total adult males	43.4	36.	38.6		38.1	38.7	26.9	31.2	23.9		23.8	*24.
Foreigners naturalized	28,841	98,730	112,504					197,341	*1,532,487		*1,523,000	1,900,000
Foreigners not naturalized	21,715	117,096	144,590					254,562	*1,540,000		*1,533,891	1,900,000
Per cent of foreign nat'ed to foreign born.	57.	48.5	43.3					43.7	*50.		*50.	*50.
Total "votables" (having age and sex)	117,713	572,726	665,009	336,137	1,408,751	1,769,649	1,144,919	1,410,191	*12,830,349		12,571,891	*15,850,000
Native men	66,761	366,499	407,915		872,153			958,381	9,757,862		9,512,891	*12,050,000
Native women in Wyoming												*15,000
Naturalized foreigners	28,841	98,730	112,504		*300,000			197,341	*1,532,487		1,523,000	*1,900,000
Foreigners declarants and voters	?	8,366	6,541					11,935			*300,000	*350,000
Foreigners not voters	21,715	99,131	139,049					242,627			1,233,891	*1,550,000
Total normal voters	95,602	465,299	520,319		*1,172,153			1,155,722			*11,335,891	*14,300,000
Exclusions	17,780	84,175									*335,891	*415,000
Paupers (not polled)	469	4,767			5,894		4,028				55,000	*75,000
Prisoners	1,246	2,950		1,248	6,639		4,251		22,441		*60,000	*75,000
Criminals	500	1,000									*15,000	*20,000
Insane	268	1,246		1,708	8,230		201		47,730		*40,000	*50,000
Residence not secured (1 per cent)	9,000	45,000							71,062		*110,000	*145,000
Taxes not paid	1,000	1,000									*30,000	*10,000
Illiterate (or "not voters")	5,297	26,212									*25,891	*40,000
Total legal voters	77,822	381,124									11,000,000	13,885,000
Per cent to population	19.9	19.6									20.4	22.4
Per cent to adult males	66.6	66.5									87.1	87.6
Total votes	44,714	209,668	285,520	205,376	1,104,605		739,918	717,225	9,218,550		9,210,970	
Per cent vote to population	11.4	10.9	12.7	17.	21.7		18.4	15.2	18.4		18.6	
Per cent vote to legal voters	57.5	55.									84.2	

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TABLE II. — POPULAR VOTE FOR PRESIDENT COMPARED WITH THE POPULATION.

		Population.			Voters.		Votes.			
		The Union.	States.	Voting States excluding negroes to 1868.	White males above 21 in States.	Legal Voters (half foreigners included).	No. of Votes.	Per cent of Population.	Per cent of Legal Voters.	
	1824						352,062			1824
	1828						1,156,328			1828
32.6 p. c.	1830	12,866,020	12,820,868	10,633,323	2,329,728	2,262,685				1830
	1832						1,250,799			1832
	1836						1,498,205			1836
35.8 p. c.	1840	17,069,453	17,019,641	14,317,850	3,278,385	3,038,288	2,410,778	16.9	78.	1840
	1844						2,698,611			1844
	1848 [Texas in]						2,871,908			1848
35.6 p. c.	1850	23,191,876	23,067,262	19,517,940	4,684,883	4,313,044				1850
	1852 [Cal. in]				5,222,314		3,144,201			1852
	1856						4,052,967			1856
	1860	31,443,321	31,183,744	25,965,833	6,870,152	5,629,310	4,676,853	17.	80.	1860
	1864 Including Kas. and Nev. (114,063) Excluding rebel states (8,703,152) and border-state negroes.		[22,594,655]	[22,047,227] *24,250,000			4,166,537	17.2		1864
26.6 p. c.			[28,520,747]	[28,400,000]						
	1868 Including Neb. (28,841). Excluding Va., Miss., & Tex. (2,591,838)			*34,282,350			5,724,684	16.7		1868
2.3 ann.	1870 [corrected]	38,558,371	38,115,641		9,298,047	7,627,878				1870
	1872			*41,312,000			6,466,165	15.4		1872
25.9 p. c.	1876 [Col. in]			*44,179,000			8,412,733	19.		1876
2.25 ann.	1880	50,155,783	49,371,340	49,371,340	12,571,445	11,034,061	9,210,395	18.6	83.	1880
	1884			*53,664,032			10,056,347	18.7		1884
24.8 p. c.	1888			*59,300,000			11,387,029	19.2		1888
2.2 ann.	1890	62,622,250	61,908,906	61,908,906						1890
	1892			*63,270,000						1892

NOTE. — Asterisks denote estimates. In Table I the figures have been verified, and in part compiled, by Mr. Theodore C. Smith. In Table II the figures from 1870 to 1876 are corrected according to the Eleventh Census Bulletin, No. 16, p. 3. The estimates of "legal voters" for 1850 and 1852 are from the Compendium of the Seventh Census, Introduction; the other years are calculated by Mr. Smith, who thinks, however, that the addition of half the foreigners to the legal voters is too high.

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REVIEWS.

Money, Silver and Finance. By J. Howard Cowperthwait. Questions of the Day Series. New York, G. P. Putnam's Sons, 1892. — 242 pp.

The Question of Silver. By Louis R. Ehrich. Questions of the Day Series. New York, G. P. Putnam's Sons, 1892. — 115 pp.

The Silver Situation in the United States. By F. W. Taussig. Baltimore, American Economic Association, 1892. — 118 pp.

The volumes of Mr. Cowperthwait and Mr. Ehrich add nothing to the literature of the silver question. They are indeed on a level with the better class of editorials constantly appearing in the Eastern newspapers, but like these they will serve chiefly to increase sectional ignorance and intensify sectional prejudice. There is nothing in them which will enable the reader to understand why it is that a great majority of the people of the United States, against the frantic protests of the bankers and economists, insisted upon the passage of the Bland Act, adding over three hundred millions of silver to our currency, and then demanded the far greater increase contemplated by the free-coinage bill, and in a large measure secured by the Sherman Act of 1890. Both authors urge every argument, no matter how bad, that has been advanced against silver, and fail to present in a strong way any of the strong arguments in its favor. Even the demagogic position, that it is the poorer people of this country who have loaned most of the money and the richer people who have borrowed it, is advocated by both writers, who see no absurdity in the idea that neither the rich nor the poor understand their own interests, and that each class is fighting for the interests of the other at the expense of its own. Mr. Ehrich goes further than Mr. Cowperthwait in echoing unscientific arguments, and in one case applies the sounding board in a most awkward fashion. He not only accepts as correct Secretary Foster's estimate that there are fifteen hundred millions now in circulation, but points out that there are six hundred millions not in circulation. In apparent ignorance that these six hundred millions consist of coin and bullion held in the treasury against certificates already counted, he says that the existence of so large a fund which does not circulate "would indicate that we already had more money than the business of the country required."

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Professor Taussig's book is of an entirely different character. It is the one enlightening volume on the silver question that has appeared in years. The reviewer has no sympathy with the author's position. Even the sketch of our experience under the Bland Act, which falsified the predictions of the bankers and economists, is unsatisfactory to the reviewer. Never once is it intimated that the bankers were led by class interest to resist the increase of the supply of money through any means that would not increase the value of the gold unit or add to the volume of credit currency issued by the banks themselves. Professor Taussig is an apologist for the creditor class and the false prophets of our universities, and his history on that account lacks a certain color that other sympathies would have given it. But his method is uncommonly scientific and no historical fact necessary to understand our experience under the Bland Act is omitted, unless it be the reason for the change that took place in Mr. Manning's policy as to accumulations in the treasury. This is a great gain; and the gain is still greater where in the succeeding chapters nearly every strong argument in favor of silver is strongly presented and met in a manly way. No one can read this book without being thoroughly informed as to the facts and arguments upon the silver question.

The criticisms to be made of Professor Taussig's work relate entirely to his clearness and originality as a thinker. He sets out by admitting in a most encouraging fashion that the old volume-of-currency theories on which the prophecies about the Bland Act were based, need to be modified; but he proceeds to hug these theories so closely as to shut out everything else from his vision. The fact that the Bland dollar did not fall in value to the price of the silver bullion it contained, is accounted for by the need of more currency, created by the withdrawal of the national bank notes and the expansion of the business of the country. The fact that no one could get one of these dollars without depositing a gold dollar's worth of silver bullion for it, is not referred to as the real reason why the price of this dollar continued to be the cost of its reproduction. The same cloud gathers over the author's predictions as to the ultimate fall in value of the legal tender certificates issued under the act of 1890.

> Eventually [he says] no doubt the steady excessive issue of silver notes would bring about both the gold premium and the higher prices. No doubt, too, if the suspension of gold payments proved permanent, the gold premium would correspond pretty closely to the difference between the intrinsic values of the gold and silver dollars as measured by their power of purchasing commodities.

Very sensibly and cautiously he refrains from setting a date for this dire eventuality, but inasmuch as he urges the repeal of the Sherman Act, it is

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worth while to calculate the proximity of the catastrophe. The Sherman Act adds nearly fifty-five millions a year to our currency. The Treasury Department estimates that the country has been absorbing sixty millions of new currency a year for the past decade. Professor Taussig puts the country's absorbing capacity at about twenty millions. Admit that he is right. In 1905 our silver currency would still fail to supply the needs of the country. Suppose that in 1910 the owners of silver bullion found that the currency of the country was really redundant, and that for fifty-five million gold dollars' worth of silver bullion they would receive silver certificates worth only fifty-four million five hundred thousand. Would they want to sell it to the government, or would the silver purchases be reduced by universal consent? In other words, is not the "eventual" danger that people will sell a dollar's worth of silver bullion for a certificate worth seventy cents, a little too remote to create great present alarm?

Professor Taussig, again, seems to go even beyond Professor Dunbar in attributing to banking credits an importance in enabling us to dispense with a legal-tender basis for those credits. The thought frequently recurs which is embodied in this sentence: "The silver issues have supplied in great part what I have called the large change of the community; but the total volume of the currency and the general range of prices have not been directly affected by them." The author has accepted what may be called the banker's perversion of greenbackism. Most of the farmers of the West want a limited amount of credit currency issued by the public, convertible on demand into gold or inter-convertible bonds, but legal tender in times of a panic when there is a sudden demand for the payment of all debts. Professor Taussig, like Professor Dunbar, wants a credit currency issued by the banks, which is unlimited in amount in times of over-confidence, when debts are made, but which disappears in times of a panic, when debts are paid. The volume of this currency is represented to be so great that the amount of money (in the ordinary sense) is a matter of little importance. There is not space for a careful statistical examination of this extraordinary position. Suffice it to say, that over against their two billions of deposits, the banks are obliged to keep in their own vaults three hundred millions of lawful money and to have a great deal more within reach if they are to guard against the danger from a panic. That the bank deposits of the country circulate more rapidly than its bills and coin, and perform the function of money to a greater extent than money performs its own function, is an idea for which there is no basis in fact. The exchanges between farmers and laborers on the one hand and wholesalers and manufacturers on the other, are performed by means of money. The exchanges between wholesalers, manufacturers and retailers are performed by banking

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credits. The exchanges between retailers and consumers are performed by money. The amount of money needed by the country is not only a matter of the greatest importance, but it increases rapidly every year.

Space limits forbid a review of Professor Taussig's argument that the debtor class has suffered nothing from the fall in prices since 1873. He admits that the product of ten acres is now necessary to meet the interest formerly met by the product of seven; but he urges that the productiveness of labor has increased in like ratio. In the case of the farmer this is not true, and in other cases there is little relief to the borrower if it is true. It is not labor which is borrowed but certain products of labor. Professor Taussig's contention that the lender should not only get back what he loaned, and the interest thereon, but should receive in addition the entire gain which has come through the increased productiveness of the labor of others, simply indicates how completely he has emancipated himself from the common prejudice in favor of leniency to debtors.

CHARLES B. SPAHR.

Civilization — its Cause and Cure; and other Essays. By EDWARD CARPENTER. London, Swan Sonnenschein & Co., 1889. — 156 pp.

One seldom reads a more pungent and entertaining work than this collection of six essays upon social topics. It will, perhaps, suffice to consider briefly the nature of the first essay, which gives the title to the book, and one other.

In the first essay, civilization is treated as a disease, whose cause and symptoms are pointed out and whose cure is suggested. The evils of civilization are well known to us all: our labor troubles, the drift toward socialism, our prisons, our poor-houses — reveal them with perfect distinctness. Mr. Carpenter thinks that the cure is to be found in a natural development of society; ultimately, man purified and elevated will rule himself without the restraining evils of civilization. The cure seems to be coming in the drift, which he thinks already perceptible, away from the present competitive society and toward a natural movement that is seen in literature, medicine, art and science.

> It is in these two movements [he says] towards a complex human communism and towards individual freedom and savagery — in some sort balancing and correcting each other, and both visibly growing up within — tho' utterly foreign to — our present-day civilization, that we have fair grounds, I think, for looking forward to its cure.

The fourth essay, entitled "Defence of Criminals: A Criticism on Morality," takes up in a different way the same line of thought. The

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text of the essay is a sentence from Hegel: "The state is the actually existing realized moral life; for it is the unity of the universal essential will with that of the individual, and this is 'morality.'" There is no definite standard of morality. Deeds that in one stage of society are considered moral and perhaps praiseworthy, in another stage are considered criminal. Society keeps changing its opinion as to the nature of acts; and when an individual performs an act that now is considered a crime, but which formerly has been considered right and may hereafter be considered praiseworthy, which is in the right — society or the criminal? It may well be that the poacher is as nearly right as is the landlord, but not for this day and generation. The distinctive watchword of to-day is "property." The respectability of to-day is the "respectability of property"; and therefore to-day the poacher is in the wrong, though in former days and in other countries a man might kill a rabbit wherever he would. The poacher is upholding the idea of liberty and of freedom. May it not be that the poacher is keeping some of the ideals of natural liberty from being utterly crushed out in the present stage of formalism? May it not be that "the so-called criminals are keeping open the possibility of a return" to a state of society that in many respects was freer and nobler than ours?

When we have caught our half-starved tramp "snaking" a loaf, and are ready to condemn him, lo! Lycurgus pats him on the back and the modern philosopher tells him that he is keeping open the path to a regenerate society! If the tramp had also been a philosopher, he would perhaps have done the same act, not merely for his own benefit, but for that of society. He would have committed a crime in order to save mankind.

The trouble with a criminal is that he is at variance with society. The solution of the problem of crime must be a reconciliation of the two.

In the pre-civilization period these vexed questions of "morals" practically did not exist; simply because in that period the individual was one with his tribe and moved (unconsciously) by the larger life of his tribe. And in the post-civilization period, when the true democracy is realized, they will not exist, because then the man will know himself a part of humanity at large and will be consciously moved by forces belonging to these vaster regions of his being. The moral codes and questionings belong to civilization; they are part of the forward effort, the struggle, the suffering and the temporary alienation from true life, which that term implies.

The essays in the book teach a philosophy with which all would not agree: but the style is brilliant, the thought is very suggestive and the whole effect is enjoyable.

JEREMIAH W. JENKS.

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Scienza delle Finanze. Di GIUSEPPE RICCA-SALERNO. Florence, J. Barbera, 1888. — 12mo, 263 pp.

L' Ideale del Tributo. Dissertazione presentata per conseguire la Laurea in Giurisprudenza. Da ROBERTO CAO. Genova, Tipografia del R. Istituto Sordo-Muti, 1889. — 8vo, 209 pp.

Leerboek der Financiën. De Theorie der Belastingen. Door P. W. A. CORT VAN DER LINDEN. Hoogleeraar aan de Faculteit der Rechtsgeleerdheid de Groningen. The Hague, Gebr. Belinfante, 1887. — 8vo, 608 pp.

Leerboek der Staathuishoudkunde. Door N. G. PIERSON. Tweede Deel. Haarlem, De Erven F. Bohn, 1890. — 8vo, xix, 627 pp.

Bijdrage tot de Theorie der Progressieve Inkomstenbelasting. Academisch Proefschrift door ARNOLD JACOB COHEN-STUART, Civiel-Ingenieur. The Hague, Martinus Nijhoff, 1889. — 8vo, 205 pp.

The study of the science of finance, on which there is not yet a single book in English, continues to be prosecuted with great activity on the continent. In some respects the best work on certain lines has recently been done by the two nations with whose literature we are the least familiar, the Italian and the Dutch. It is worth while to call attention to a few of the late books on general theory.

Professor Ricca-Salerno's *Scienza delle Finanze* is only a compendium, but it is noteworthy for its clear and succinct discussion of fundamental problems. It deals very little with facts, and never with details, but attempts to lay down guiding principles. It is in some respects more difficult to write a small work than a large one, and Ricca-Salerno might easily have expanded his volume had he so chosen; for his previous elaborate works on the *History of Fiscal Doctrines in Italy* and the *Theory of Public Debts* show that he is fully acquainted with all the literature of the subject. In this little work he discusses first what he considers the three principal doctrines of public finance — the consumption, the exchange and the production theories. Many of his observations show great acuteness, but his criticisms as well as his conclusions are based chiefly on those of Sax. He treats of the doctrine of benefits and the doctrine of faculty in matters of public revenue; but like most of the continental writers he distinguishes only between fees and taxes. The theoretical importance of the doctrine of special assessments is neglected by European writers, because the institution is primarily American. It will remain for American writers to make a distinct contribution to public finance on this point. Ricca-Salerno's attempt always to find the

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golden mean sometimes brings him into difficulties, as in the case of progressive taxation, which he says is not a matter of theory at all, but of practice. The theory of incidence is passed over a little too summarily, but the results of recent studies are shown in the application of the final-utility theory to fiscal problems. On the whole the little work is important, not so much because of any new views, as on account of the eminently lucid presentation, in small compass, of the fundamental doctrines.

Just as Ricca-Salerno bases his general discussion on Sax, Cao in his *Ideale del Tributo* bases his treatment on Ricca-Salerno. Cao's work is a doctor's thesis, and although very pretentious, makes really no advance whatever. In the few points where he differs from Ricca-Salerno, his efforts are not very successful. It is the work of a faithful, painstaking student, whose mental horizon is confined to the view opened up by his teacher. His sad lack of originality is seen especially in the discussion of progressive taxation.

Very different on the whole is the impression made by the recent Dutch works. The writers of Holland are by no means as well known as they deserve to be. The contest between the schools, that has agitated Germany and Italy and has spread to England and America, never affected Holland. The Dutch writers pursued the even tenor of their way in harmony, accepting what was best in both schools, and developing on independent lines. This harmony is in great part due to the leader of the Dutch economists, M. G. Pierson, who from the very outset, two decades ago, accepted Jevons's theories. The final-utility theory of value had been accepted and developed in many of its applications in Holland years before the so-called Austrian school made itself talked of. And on the other hand Holland has not been lacking in those who devoted themselves especially to the historical and statistical side of economics, without thinking, however, that they possessed all the truth. The science of finance was treated in a somewhat later stage of the Dutch development, but with equal success.

One of the most recent treatises is Cort van der Linden's *Leerboek der Financiën*, which deals, however, in this volume only with taxation. After a general discussion on the nature and importance of public revenues, the author treats of the three divisions of taxation, as based respectively on the legal, the economic and the fiscal principles. The legal principles are those of equality, of what he calls social policy, and of universality. The economic principles deal with the pressure and the shifting of taxation. The fiscal principles are those of adequacy, fixity, elasticity, and least possible detriment to production and exchange. This division is perhaps not entirely unexceptionable, but the discussion is satisfactory except in the troublesome paragraphs on incidence. An important part of the work is the administrative side, such as the

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methods of payment, control, remedies and penalties. This includes both an historical and a comparative discussion, and attempts to draw some general conclusions. The author divides taxes into taxes on product (*ontvangstbelastingen*), taxes on expense, taxes on exchange and taxes on income, and compares the systems in England, Germany, France and Holland. While not making any noteworthy contribution to theory, van der Linden's work is welcome as extending our material for a comparative science of finance.

A more important treatise is Pierson's *Leerboek der Staathuishoudkunde*, of which the first part was published in 1884. Over half of the present volume is concerned with public finance; although many of the problems had already been dealt with by M. Pierson in his *Grondbeginselen der Staathuishoudkunde* several years ago. Pierson's treatment is characterized by broad touches. He is thoroughly at home with all the recent continental, English and even American literature, and tries to get to the bottom of many difficult problems. He is one of the first to attempt a comprehensive theory of incidence of taxation, combining Schäffle's amortization theory with some more eclectic views. He sharply criticizes Mill's treatment of the principle of equality of taxation, and constructs his whole theory on the principle of faculty. Everywhere the subject is treated with a master hand. It is not so much a work for the beginner, as for the advanced student who desires to analyze more carefully the leading theories of modern public finance. I wish to call attention to only one point, in which Pierson discusses the work of Cohen-Stuart.

One of the most perplexing and most mooted questions in public finance is that of progressive taxation. The history of this interesting problem has never yet been adequately written. It is noteworthy that the most elaborate recent discussion has been conducted by Dutch writers. The works of Treub, *Ontwikkeling en verband van de Rijks-* [*etc.*] *belastingen* (1885), of Bok, *De Belastingen in het Nederlandsche Parlement van 1848–1888* (1888), of Mees, *De Progressieve Inkomstenbelasting* (1889), and of Minderhoud te Sneek, *Bijdrage tot de Kennis der Inkomstenbelasting* (1889), all treat of this subject. But by all means the ablest is the work of Cohen-Stuart, *Bijdrage tot de Theorie der Progressieve Inkomstenbelasting*. Although the work is a doctor's dissertation, the author is no longer a very young man, and the monograph is marked by an unusual maturity of thought.

Cohen-Stuart begins with defining equality of sacrifice. Looked at from the subjective point of view there are four consequences of a tax: (1) The sacrifice of the money taken; (2) the sacrifice of the enjoyments which the money might have procured; (3) the sacrifice of the proportion which this amount of enjoyment bears to the total enjoy-

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ments at the disposal of the taxpayer, which he calls for short simply the sacrifice; (4) the moral effect produced or the pain. With the latter economics has nothing to do. Equality of money sacrifice (*gelijk geldsoffer*) means that precisely the same sum be taken from everyone; equality of sacrifice of enjoyment (*gelijk genotsoffer*) means that all shall be deprived of equal enjoyments; equality of sacrifice (*gelijk offer*) means that everybody is to pay so much that the total enjoyment of each shall be diminished in relative proportion. That is, equality of sacrifice means proportional sacrifice of enjoyments (*evenredige hoovelheid genot*). Cohen-Stuart takes a long time to explain this, which is afterwards adopted by Pierson as a great discovery. But in reality there is nothing new about it. It is precisely what John Stuart Mill expressed in slightly different words. Thus far we have much ado about nothing.

Cohen-Stuart then discusses the idea of faculty (*draagvermogen*) and accepts von Scheel's definition that the "measure of faculty is the income which can be made use of for purposes of taxation, with a due regard for the standard of life." Faculty necessarily implies, so he thinks, exemption of the minimum of existence. And since faculty is conditioned by equality of sacrifice, the demand of just taxation is as follows: "To tax the individual so that the amount of enjoyments of which he is deprived through the tax may be proportional to the total amount of enjoyments attainable through his economic condition, deducting that part which consists in the satisfaction of his absolutely necessary wants." This problem he thinks can be solved only by mathematics, since the relation between enjoyment and income is really a mathematical relation. He uses Jevons's nomenclature and maintains that the final utility of any quantity of income varies in some inverse ratio to the whole income. The curve which expresses this change he terms the line of utility (*nuttigheids-lijn*).

We now come to the really novel part of the book. Most of the Dutch writers mentioned above, like many of their predecessors in other countries, maintain that a fall in the line of utility of itself necessarily leads to progressive taxation; and that since our wants become relatively less urgent as we rise in the scale of income, progressive taxation is the corollary of equality of sacrifice. Cohen-Stuart, on the contrary, gives a number of acutely designed diagrams and tables to show that a gradual fall in the line of utility may lead to proportional and even to regressive, as well as to progressive taxation. There is no space to reproduce these tables here, but there is no doubt that Cohen-Stuart proves conclusively that the arguments hitherto advanced in favor of a definite rate of progressive taxation are untenable.

Cohen-Stuart then endeavors to show how a definite rate of progres-

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sion may be mathematically constructed, and progressive taxation thus be rescued from the charge of arbitrariness. He starts with the hypothesis that the final utility of a definite part of income varies exactly in inverse proportion to the total income, or in other words that the same percentage of income affords everyone an equal satisfaction. He then constructs three tables and diagrams on the assumption that the actual line of utility curves either more or less than his hypothetical line. And he finds that, when we neglect the minimum of subsistence, the rate of progression which is to produce equality of sacrifice differs very little in all three cases. From this he infers that his hypothetical line stands a very good chance of being the actual line. And in conclusion he lays down the general rule: "Arithmetical increase of the tax rate with geometrical increase of the income up to a definite point, when progression is to be replaced by proportion."

It is impossible to give here the details of the ingenious reasoning. But it may be said that Cohen-Stuart is not successful in proving his main thesis. The work is important mainly from the critical point of view. He is always acute and suggestive, and has undeniably put the discussion of progressive taxation one step forward. Even if his own positive conclusions are not tenable, his exposition has so enriched the treatment of some of the fundamental problems of public finance, that all future writers will have to reckon with it. The question of progressive taxation will have to be argued henceforth on a different plane.

EDWIN R. A. SELIGMAN.

Handbuch der Politischen Oekonomie. Herausgegeben von Dr. GUSTAV SCHŒNBERG. Dritte Auflage. Tübingen, 1890–91. — 3 vols., 4to, xiii, 790; xiii, 1128; xiii, 1164 pp.

It is a gratifying evidence of the interest taken in economic studies to-day that three editions of this stupendous handbook should have been called for within eight years. For although nominally a handbook, it is really a complete collection of extensive treatises on every imaginable topic of political and social economics, finance and administration, in which Professor Schönberg has called to his aid most of the prominent economists of Germany. The work in its earlier editions is so well known and so indispensable to students that it will be necessary to note only the changes or additions that have been made in the present issue.

The first point that strikes the reader is the division of the work into three volumes, instead of two. The third volume, now the largest of all, is devoted exclusively to public finance and administration, and

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bears the title *Finanzwissenschaft und Verwaltungslehre*. It is in this volume that the chief alterations are to be noticed. The taxes on consumption (*Aufwandssteuern*), except the sugar tax and the import duties, are now treated by Professor Lehr, instead of by von Schall. Wagner still discusses the direct taxes and public debts, but he has modified his views in minor points as a concession to recent criticism. Von Reitzenstein has greatly expanded his article on "Communal Finance," and presents by far the most complete and valuable account of the history and present condition of local finance that has yet been published. In many of the chapters evidence is given of the increased interest in American conditions and recent discussions.

The other volumes show less changes except in the articles on fisheries and mines, patents and copyrights, where the previous collaborators have been replaced by Buchenberger, Schenkel and Kohler. As in the second edition, the editor himself takes up the general labor question. The reason why Professor Brentano, who so ably treated the subject in the first edition, could not see his way to publishing anything in the later editions, is known to every one who is at all acquainted with recent economic theory in Germany. Professor Schönberg acquits himself of his task with great erudition and ability. But his view may be called the imperial view. Whoever desires the other and independent point of view, will still seek to supplement this edition by the earlier edition which contains Brentano's monograph.

The handbook in its present form is a veritable cyclopædia, but more valuable than a cyclopædia because of its systematic arrangement. The contributors cover not only the whole science, but the whole civilized world. What such a work inevitably loses through overlapping and conflict of views it more than makes up in the wealth of its contents and in its systematic arrangement. Each volume is now supplied with a full index. The greatest praise that can be accorded to the work is to say that if a student could possess only one foreign work in economics, this third edition of Schönberg would be the one which every conscientious and intelligent teacher would necessarily recommend. It is in the fullest sense of the word indispensable to a complete survey of the whole subject.

E. R. A. S.

Villainage in England. Essays in English Mediæval History. By PAUL VINOGRADOFF, Professor in the University of Moscow. Oxford, at the Clarendon Press, 1892. — 464 pp.

All scholars who are interested in any phase of economic history will welcome this work of a well-known Russian investigator, a first edition

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of which was published in Russian some four or five years ago under the title: *Inquiries into the Social History of Mediæval England.* The present edition, however, is not a translation, but a work practically rewritten for the English-speaking public by Professor Vinogradoff himself. This has enabled the author to incorporate the results of recent investigation, most noteworthy of which are Professor Maitland's conclusions regarding manorial courts. English readers, therefore, are to be congratulated on receiving these riper fruits of the Russian professor's scholarship, because in the study of English villeinage this work marks an epoch and must serve all future investigators as a model and a guide.

The author's views in the Russian work have already been known from Professor Kovalevsky's review. His conclusions indicate a reaction toward the older view of the village community, and notwithstanding the fact that Professor Vinogradoff has cleared up hosts of difficult problems in the course of his discussion, it is evident that he has before him one thesis to support, namely, the freedom of the Saxon ceorl and the communal character of the Saxon vill. His method is a familiar one: starting with a strictly historical investigation, he seeks to trace clearly and exhaustively the consecutive stages in the development of English villeinage, not by taking selected examples, but by exploiting and analyzing all the evidence from the thirteenth century through Domesday to the Saxon period.

The central topic of his discussion, around which everything else revolves, is the community in villeinage; the seignorial element lies more in the background and we are left wholly in the dark as to what Professor Vinogradoff considers to have been its origin. On one point, however, he is clear: the lord was, economically speaking, an organic part of the community; he was not superimposed upon it. The seignorial element was not created by legislation, nor the communal characteristics by measures of taxation. Nevertheless, because manor and vill were not necessarily identical, they tended, as the result of a gradual development, to form two distinct units: the one a unit as regards geldability, — the estate proper; the other a closely and powerfully organized community, of which the lord was merely a constitutional president. In such development the communal element has become overshadowed by the legal theory, although behind the feudal covering of the manor the corporate unity of the township is plainly to be seen, forming a distinct element in the matter of services and labor. In the evidence of the thirteenth century, although these two parts form theoretically one manorial unit, they do not in fact always fit together into one working whole.

Of the two essays which make up this volume the first relates chiefly to the legal and customary status of villeinage, the second to the agrarian system. Neither is complete without the other; to the analysis of the

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status of the individuals must be added the analysis of their economic and political groups. It is this completeness of Professor Vinogradoff's work which gives the reader confidence in his conclusions. He has carefully examined the material in print and manuscript and has analyzed all phases of village and manorial life. After an elaborate introduction bearing on the history and literature of his subject, he takes up the legal aspect of villeinage. He finds that the political disability of the peasantry had gone so far as to warrant Bracton in assuming the Roman laws of slavery for the English villein; this may serve as an apology for Bracton but it also betrays his lack of real knowledge. The simplicity and rigidity of legal contrasts, however, our author thinks were largely modified by the influence of historical tradition and practical life. For example, the customary distinction between villeins regardant and villeins in gross was not a difference of status, as is commonly thought, but rather a mode of pleading by which the lord could prove his title. In the same way Professor Vinogradoff everywhere finds evidence contradictory to the legal teaching — evidence which shows that the servile class had civil rights and duties at the very time when the law books treated villeinage as slavery. These contradictions, as due to historical conditions, can be seen in their most complete form on the ancient demesne; not because the law actually recognized the ancient demesne privileges, but because the ancient demesne tenantry, though developed from the same stem as villeins in general, had retained their ancient rights much less distorted. The ancient demesne privileges therefore seem to throw great light upon rights and exemptions in the time of Edward the Confessor. Such privileges as freedom from taxation, separate jurisdiction and exemption from toll, point to a life of greater freedom rather than greater serfdom for the Anglo-Saxon people as a whole before the Conquest. According to the author the degradation of the villein is traceable to three sources: personal subjection, which had its historical root in slavery; economical subjection, arising from burdens imposed primarily upon the land, but which the holder of such land must bear; and manorial exactions, arising from the political powers conferred by feudal lordship. These are historical causes; the relations developed from the last two processes would rest originally on economic and jurisdictional distinctions, though in time all groups would become more and more bound up together, the incidents of servitude tending to attach themselves to persons originally free. Further analysis of these customs, odd and capricious as they seem to be, shows traces of serious and burdensome seignorial limitations; custom and tradition were in numbers of instances obstructive to the exercise of full lordship.

On this general subject Professor Vinogradoff reaches other important

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conclusions. Money rent, he finds, was not always the result of commutation. In many cases it was clearly a customary payment of a part of the Saxon people who had always remained free from base labor. The "hundredors" also, so called because of their attendance at the hundred-court, represent the villeins, not the freemen, and point to an original constitution of hundred and county derived from a social system which contained no traces of the feudal contrast between freeholder and villein. There seems an indication here that the feudal villeinage represented an original population economically as well as personally free. Furthermore, the custom of Kent contradicts the generalizations based upon the absence of the elements of freedom in Domesday, and indicates that freedom was an important constitutive element in the historical process leading to feudalism. From this it is probable that thirteenth-century freeholders were entered as villeins in Domesday, emerging again afterwards in spite of the influence of feudalism. In this important conclusion Vinogradoff stands opposed to the majority of modern writers.

Turning from the examination of personal status to the study of rural rents and works, Professor Vinogradoff reaches the same conclusions. All evidence shows the compact, indivisible, communal nature of the village organization, — a condition due to no outside pressure or legislation. Compulsory rotation, intermixture of strips, relations with pasture and wood — bear strong witness to the original communal arrangement. Mr. Seebohm's view as to the cause of the intermixture of strips is inadmissible, as such intermixture could only have been due to the desire to equalize the distribution, and was rendered necessary by the varied nature of the land surface. These conclusions, resting mainly upon thirteenth-century cases of distribution, would find support, I think, from a study of the New England system. Similar support could have been found for another view supplemental to the above. Professor Vinogradoff thinks that if single strips had become private property after the first allotment, the inconvenient intermixture would soon have ceased. In New England allotments similar, though not of course identical, did become private property, and in consequence no activity is more marked during the first few years of town history than the activity in real estate. But this did not happen in the English community; the holdings were indivisible, and the scattered strips could not be united. Such bundles, or virgates, included not only the arable land, but rights also in pasture and woodland; all went together, and this explains many curious customs relative to the oxen and the pasture, — customs to which the lord also was bound. This is not necessarily inconsistent with the gavelkind tenure of Kent; for a number of heirs might have rights in a holding, which, because of the burdens upon it, *would* not

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be divided, while the oxen, which were a necessary part of such holding, *could* not. In summing up the services, Professor Vinogradoff again says that the thirteenth-century services show greater burdens than those of the eleventh.

Two other matters of interest may be briefly noted. It has been customary among opponents of the old theory to consider the regularity of the villein system and the capricious and disorderly phenomena of the freehold tenure as representing respectively an original servile communal organization and a system of freeholding not communal. Professor Vinogradoff modifies this by saying that he finds clear evidence in all the irregularities of the freehold plots of a system similar to that on villein soil, and he thinks that a process of disruption has taken place more rapidly in this instance. From this he argues that the freeholds stand for feoffments made to favored persons, enfeoffed at different times and under different conditions, while at the same time many such tenements appear as a later growth engrafted on a system already in decay. The other point refers to the matter of surrender and admittance, which is usually taken to characterize the absolute ownership of the lord. As over against this there would seem to be much reason to believe that the lord or his steward stood in this matter not as owner but as middleman, a well-known intermediary in land transfers in early Germanic law. This view sustains the original communal authority of the community.

Among other evidence upon which similar argument is based we may note: the leanings of the courts in favor of the liberty of a serf; the fact that the lord's power over a serf was entirely bound up with the manorial organization; the influence of geld-rolls, where fixed hidation got out of accord with growing agrarian conditions; the origin and growth of the farm-system; the fact that the lord's strips followed the same course of husbandry and were limited by the same regulations as the villein's; the influence of external agencies which have tended to distort the original arrangement.

There are many questions of smaller moment upon which Professor Vinogradoff has thrown much light, such as "merchet," which Mr. Pike has recently attempted to solve in the preface to Year Book 15, Edward III., "borough English," "acrewara," "molmen," "socmen," as well as the many names of lesser tenants whose position is so perplexing.

But enough has been said to show the importance of Professor Vinogradoff's work. I believe that by it the burden of proof is thrown upon the supporters of the village in serfdom. All scholars will, however, look with interest for the publication of the second volume, which is to treat of the evidence of Domesday and the eleventh century.

CHARLES M. ANDREWS.

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Beiträge zur Wirtschaftlichen Entwickelungsgeschichte der Vereinigten Niederlande im 17 und 18 Jahrhundert. Von Dr. Otto Prings-heim. Staats- und Socialwissenschaftliche Forschungen, herausgegeben von Gustav Schmoller, X, iii. Leipzig, Duncker und Humblot, 1890. — 126 pp.

When we remember how much the modern world owes to the republic of the United Netherlands, — from methods of public finance down to (or up to) methods of agriculture, — it is surprising how little has been done in the way of exposition and explanation of her political and economic system. There may be valuable works in the Dutch language with which foreign scholars are not acquainted; but among the books generally known to economists, that of Laspeyres on the history of economic thought in the Netherlands has hitherto been the only one which attempted to deal with any part of the subject in a thorough and scientific way. This essay of Dr. Pringsheim, occupying seventy-one pages of text, with an appendix of documents, is a welcome addition to our material and will clear the way for future investigators. It seems to be based almost entirely on the works of Dutch historians, with but little use of unprinted documentary evidence, which the author was unable to consult very minutely during his brief visit to Holland; but the essay is probably not much the worse for that. There is too great a disposition among recent historical writers to magnify the importance of manuscript material; a man will often lay undue stress on some little fact he has himself discovered in the "archives," and altogether overlook the more weighty facts he could have found in accessible books. Certainly, for a first introduction to the subject, it is better to do as Dr. Pringsheim has done, and put before us in a compact form the conclusions suggested by the already existing literature. But it would have helped us a little more if he had also given us in an appendix a list of the authorities used, with a word or two of criticism for each.

The essay opens with an "Introduction" which states and attempts to solve the riddle of Dutch history: Why was the prosperity of the republic so short-lived? The explanation our author assigns is the supremacy of the towns, which prevented the growth of a united state. He maintains that Schmoller has overestimated the degree of centralization actually obtained, and illustrates the weakness of the federal power by an account of the admiralty department. But he scarcely shows how greater unity would have prevented the loss of the republic's commercial and industrial supremacy. Did not the economic greatness of the United Netherlands rest on too narrow a territorial basis? And was it not inevitable that the republic should be obliged to fall back into the second rank when the nations with wider territory, more fruitful soil and larger population began to develop their natural resources?

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The first chapter then deals with the progress of Dutch trade in the seventeenth and eighteenth centuries. Here his chief propositions are that the decay of Dutch trade did not begin, as is often supposed, in the second half of the seventeenth century, but in the second half of the eighteenth; and that the East India trade was never anything like so considerable as the European trade, — indeed, that the fate of the Baltic trade was far more decisive. Both propositions are probably true; though it is impossible to attach much weight to the tariff statistics here presented to us without further information as to rates. On the first of his propositions Dr. Pringsheim might have strengthened himself by a reference to the opinion of Adam Smith, writing in 1776. It is at any rate the opinion of a shrewd contemporary observer. According to Adam Smith the Dutch were "still the great carriers of Europe," Holland was still "the great emporium for all European goods," the Dutch were "still the principal fishers in Europe that attempted to supply foreign nations with fish" (book iv, chapter 2); and in another passage, after expressing his disagreement with those who "pretended" that "the trade of Holland was decaying," he adds: "During the late war (1756–1763) the Dutch gained the whole carrying trade of France, of which they still retain a very large share" (book i, chapter 9).

The brief second chapter, on the "Organization of Trade," brings out the curious fact that each of the great trading companies, those for the East and West Indies, for the Levant and for Muscovy, was divided into a number of town "chambers," and reproduced in its constitution the federal arrangements of the republic. Probably they did not retain longer than in other countries the characteristics of the period of transition from civic to national trade; and this feature may be roughly paralleled from the history of the English "merchant adventurers."

The third chapter treats of the "Prosperity and Downfall of Dutch Industry." Dr. Pringsheim shows how the advent of the French refugees after the recall of the Edict of Nantes stimulated the growth of several industries, especially the silk manufactures. Before the end of the seventeenth century the development had gone so far that silk mills were founded in two or three localities, employing hundreds of work people under the same roof. Probably the heavy taxation, the high cost of living and the parochial policy (*Kirchturmspolitik*) of the towns contributed to the loss of the trade; but the account of the protective measures of the other European states, with which the chapter concludes, doubtless indicates the principal cause.

"A Contribution to the History of the Industrial Organization" occupies chapter four. Many serviceable facts are brought together, but the author does not distinguish as clearly as he might between those industries in which the gild system still survived in a modified form, and

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those — especially the textile trades — in which the development had moved on to a later stage, that of the "domestic system," while still retaining many of the regulations of an earlier period. The next chapter, on "The Position of the Workmen," is one of the most interesting, especially in its account of the "*Knechtsgilden*." The organization of the journeymen is a subject which, since the appearance of Schanz's *Gesellenverbände*, is beginning to attract the attention it deserves. According to Dr. Pringsheim the journeymen's associations in the Netherlands were "exclusively for purposes of assistance in sickness and other times of need, and they could only be created with the consent of the master's gild and the town council." This is probably true enough of the seventeenth century; but their earlier history may well have been stormier — as it seems to have been in Germany, and, in a few instances, in England also. With this chapter the book ought to have closed. The heterogeneous details with regard to workmen's riots and isolated communistic fanatics which are grouped together in the last chapter, under the head of a "Contribution to the History of the Social Movement," certainly have not the significance which the title of the chapter would seem to attribute to them.

W. J. Ashley.

Trade Unionism, New and Old. By George Howell, M.P. London, Methuen & Co., 1891. — 12mo, 235 pp.

Problems of Poverty. By John A. Hobson, M.A. London, Methuen & Co., 1891. — 12mo, 227 pp.

The two books before us deal with two distinct phases of the labor problem, — that of the more skilled and organized labor, and that of the unskilled, or low-skilled, and unorganized labor. In both cases, however, the treatment is suggestive rather than convincing or final. The conclusions are in the main negative, if not fatalistic; and in one important feature they are directly opposite in the two works, — Mr. Howell having faith in the individual, Mr. Hobson in the state.

In *Trade Unionism, New and Old*, it is Mr. Howell's purpose to describe the present condition of trade unions and to point out what, to his mind, is their legitimate function; but more especially also to indicate what he considers to be the dangers threatened by the so-called "new trade unions." As preliminary to this discussion and apparently as a warning lesson, the author gives a very brief sketch of the rise, progress and decline of the mediæval guilds. To this is added a more extended account of the rise, progress, organization and financial achievements of trade unions — "the legitimate successors to the old

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English guilds" (page 47). Though the struggle of labor for the right to organize began "more than five centuries" ago, and though the unions were legally recognized as early as 1824, it is only since 1875 that they have had full liberty of action. Their more important history therefore falls within the present century. Indeed, old trade unionism — "a misnomer" — dates no farther back than 1850; new trade unionism from 1889. It is in the treatment of these two branches of unionism that the importance and interest of Mr. Howell's work is to be found. In this treatment he essays to be impartial, but his strong bias for the system with which so many years of his life have been identified, makes him unconsciously an apologist for the old, an antagonist of the new ideas.

According to Mr. Howell the old unions are primarily provident benefit societies (page 58); with the new unions, benefits are subsidiary; the chief thing is to fight (page 137). A formidable array of evil practices is charged against the new unions. But when Mr. Howell thus characterizes the new unions as degenerate and blames them for not making use of the light of history, he does not stop to think that one of the imperfections of humanity, and perhaps more especially of the English branch of it, has always been the unwillingness to learn from the experience of others, nor does he allow for the fact that the new unions are organized by a more ignorant class of workmen than those that now constitute the old unions. That the old unions have reached a certain status, does not argue that the class of labor organized in the new can start at the point which the others have reached. Nor if they *would* make use of past experience is it at all probable that they *could* do so intelligently. And though we may perhaps criticize their methods, there may at least be a recognition of the rightness of their aim, in so far as it is to incorporate into their unions all the workmen in their trades. For we are forced to admit that it is only when "a union can boast of having within its pale two-thirds of the entire workers of the trade that its power is almost paramount."

The movement in the unions for an eight-hour law is attributed by Mr. Howell to the influence of socialistic agitators. Such a law he deprecates on the ground that it would be an unwarranted interference on the part of the state, since "the men have the power in their own hands to effect it [an eight-hour day] by combination" (page 185). All this may be true, but Mr. Howell does not seem to give due credit to the fruitful action of the government in the reduction of the hours of labor, or to the beneficial effects of factory legislation.

Mr. Hobson's *Problems of Poverty* deals particularly with that mass of low-skilled or wholly unskilled labor which constitutes 77 per cent of the population of East London (page 9). With the absolutely destitute, or with labor in general, the author is not specially concerned.

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His professed purpose is to seek not causes or remedies, but only "the amount and the intensity of poverty" (page 5); but in reality a statement of causes and proposed remedies occupies the larger part of the work, though without any more definite solution of the problem than the statement that it is a "national question," — one that the state will be forced to deal with. In this discussion the author touches upon almost every important social question in its bearings upon the problem of poverty, and if he has no new solution to offer, he at any rate gives us a very clear idea of what the problem is. As to the extent of poverty, we are told that on the average fifteen per cent of the unskilled laborers are constantly unemployed, and that "it seems probable that in the richest city of the world, one in every four adults dies dependent on public charity" (page 19). In treating of causes and remedies the author discusses the effects of machinery and the sweating system, and has chapters on socialistic legislation and the condition of working women.

The existence of the sweating system Mr. Hobson thinks must be laid at the door of the consumer who demands cheap goods. The excessive over-supply of low-skilled and unskilled labor which alone makes it possible to meet this demand constitutes the ground-rock of the sweating system and gives rise to the problem of poverty. The sweated class of laborers is recruited by the influx from rural districts into the larger cities, by foreign immigration, and by the constant introduction of new machinery which enables boys and women to compete with men. Mr. Hobson does not see his way clearly to any effective method of rooting out the evil. Something he thinks might be accomplished by putting restrictions upon foreign immigration and by prohibiting the employment of married women in factories and workshops. He even suggests that if it were practicable, it would be desirable to prohibit the employment of women altogether. But owing to the ignorance and low moral state of the class of workmen under consideration, he sees no possibility of any restraint upon population through the preventive check. Yet, if the problem of poverty is "a national question," and if, as Mr. Hobson affirms, it is the duty of the state to take into its hands this overplus of the unemployed, is it not the right, or even the duty, of the state to check population by restrictions upon marriage and by penalties upon the production of children beyond the means of supporting them?

In conclusion, we may note that Mr. Hobson thinks much might be done to remove the evils of sweating by organizing the labor and subjecting the workshops to inspection. But since this is practically impossible, the only remedy is the substitution of the factory system, which would render both organization and inspection possible. This however

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would leave us with a permanent class of unemployed, and "so long as there remains this standing pool of excessive labor, it is difficult to see how the wages of low unskilled workers can be materially changed."

STEPHEN F. WESTON.

Éléments de Sociologie. Par COMBES DE LESTRADE. Paris, Félix Alcan, 1889. — 8vo, 279 pp.

Sociologie und Politik. Von LUDWIG GUMPLOWICZ. Leipzig, Duncker und Humblot, 1892. — 8vo, 162 pp.

Les Lois Sociologiques. Par GUILLAUME DE GREEF. Bruxelles, Oscar Moyolez et Jules Audiarte, 1891. — 8vo, 63 pp.

These three titles stand for as many different conceptions of sociology, which it will be instructive to compare. They are fairly representative of the views of leading writers on this science at the present time. At one extreme we have that examination of social institutions which begins in description or analysis, but shades into a discussion of policy; at the other an attempt to discover immutable laws that will enable us to explain and predict the combinations of social elements as rigorously as the chemist explains and predicts the combinations of matter. The two positions do not absolutely exclude each other, and we cannot say that the Viscount Combes de Lestrade is inconsistent in affirming that sociology is a science of previsions, while devoting much space to a discussion of the merits of institutions as they are and as they might be, or that Dr. de Greef, whose chief ambition is to formulate the natural laws of social action, is necessarily untrue to his scientific principles when he advocates measures of democratic socialism. But for the purposes of pure science it makes a difference whether causation is or is not so far and so distinctly traceable in the phenomena studied, that the investigator's whole attention is absorbed in learning what is and what certainly will be, to the practical exclusion of his likes and dislikes. Whether this is possible in the study of society, is precisely the question that sociologists have to answer by their methods and their books, before their scientific credentials can be written. Meanwhile diversity of view and variety of treatment should be welcomed.

The *Éléments de Sociologie* is not a systematic, or even an orderly, work; the reader seeks in vain for a clue to the principle, if any, on which the chapters have been put together. Perhaps this absence of arrangement is studied; for it is in marked contrast to the current fashion in sociological writing, and permits free play to the author's individuality. In another important respect, too, the work has a distinct character of its own; there is no attempt to describe society comprehensively,

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none to trace out the evolution of institutions from the beginning, and none to discover in social phenomena a hierarchical succession or an order of subordination. The conception of society as a great being, biological or spiritual, is ridiculed. As the author views it, society exists as soon as a number of individuals coexist. It is no mystical somewhat; it has no consciousness; it does not rest on contract; no man can get out of it or away from it, and if he could he would cease to be a man. It is merely the aggregate of individuals plus those arrangements, institutions, conventions, forbearances, and so on, that make living together comfortable and profitable. To make possible the life of an intellectually developed humanity, certain institutions, beliefs and sentiments are absolutely necessary; and it is from this point of view that Combes de Lestrade regards them. They are in this sense the components of society; and to understand how and why they are indispensable, is therefore to know the elements of sociology. Accordingly, the author would restrict sociology to this study of the necessary constituent elements of society, and leave to political economy the consideration of their working or function. Consistently with these views he distinguishes society from the state. Society is general and inevitable; the state is particular and rests on contract or consent. Rights and obligations inhere in social relationships. The state does not create them, but finds them already existent and is itself bound by them.

What, then, are these essential factors of society? Viscount de Lestrade makes no formal enumeration, but selects for his own examination these: marriage and the family, liberty, morals, patriotism, governments, religions, the social instinct, property, and such hereditary ideas and feelings as bravery, chastity, love of eloquence and reverence for age. Under the family he studies the problem of education and the sociological rôle of the sexes. The treatment of these topics is impartial, but strongly conservative in tendency, the author's personal feeling being evidently in perfect accord with his reasoned conviction that humanity could not get on if its time-honored habits and customs were destroyed.

Moral and legal relationships and certain psychical facts are thus the elements into which Combes de Lestrade resolves society. Are these really the ultimate elements? Is this analysis final? Are the boundary lines of sociology rightly drawn in this book? A majority of sociologists will answer all these questions in the negative, though few, if any, will question that we have in these pages an able and original contribution to a science that has not yet assumed its final form.

In the sociology of Professor Ludwig Gumplowicz we find system, rigorous adherence to a chosen method, and an analysis of social facts carried back to an interpretation in terms of ethnographical relations. Dr. Gumplowicz's first sociological treatise was the suggestive work

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entitled *Der Rassenkampf*, published in 1883, in which a serious attempt was made to explain the course of history and the structure and politics of modern society by the original differences, the conflicts, interminglings and amalgamations of ethnical groups. In the *Grundriss der Sociologie*, published two years later, the author developed in outline a complete theoretical sociology. His attempt, too, like that of the Viscount Combes de Lestrade, is to find the social elements, but he conceives the problem in a different way and insists that the true social element is neither an institution nor an idea nor a biological process. It is a concrete social group of living men with all their feelings and habits; in short, the primitive horde or tribe. Social structure, industrial organization, government and intellectual progress all begin when these elements are bound together in lordship and subordination; some groups, having subdued others, established government over them and set them at enforced labor. And now, in this latest work on *Sociology and Politics*, we have an application of these notions to the problem of practical politics. Of the four books into which the volume is divided, the first is on the scientific character of sociology, and its relations to such special social sciences as statistics, ethnology, political economy and jurisprudence; the second is on history as a natural process; the third is on politics as applied sociology; while the fourth is an exceedingly interesting and valuable review of recent sociological literature. Much of this matter, as the reader will have inferred, is a repetition in other words and with new examples, of the doctrines of the former volumes; but in the third book, which rightly gives the general title to the whole work, there is much that is fresh and of timely interest. The theory that all social action is essentially a *Kulturkampf* growing out of the antagonisms of heterogeneous ethnical elements, is made the basis of an instructive discussion of the relations of modern European powers.

Of all sociological undertakings now in progress, the most comprehensive, after Mr. Herbert Spencer's, is the *Introduction à la Sociologie*, by Dr. Guillaume de Greef, of Brussels, a lawyer in active practice and professor in the School of Social Sciences in the university of that city. In his younger days he was an ardent socialist, an active contributor to radical journals and one of the founders of *L'Internationale*. Yet he found time and had the taste for other studies, which resulted in a series of articles on the history of philosophy and an excellent abridgment of Spencer's *Principles of Psychology*. These were followed by a number of monographs on special economic questions. In 1886 he published the first part of his *Introduction à la Sociologie*. This bore the subtitle *Éléments*. The second part, which appeared in 1889, is called *Fonctions et Organes*. A third will be on *Structure Générale*, and a fourth on *La Dynamique des Sociétés*. On the foundation laid in these volumes the

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tireless author hopes to base special studies of the philosophy of credit, the philosophy of money, prayer and sacrifice, the philosophy of political doctrines, the philosophy of law, social pathology, and, finally, a volume on *Solutions Sociales Pratiques*.

As Gumplowicz would carry the search for social elements back to heterogeneous ethnical groups, de Greef would go further yet and find the ultimate factors in environment and population, in biological laws and psychical activities. He does not, however, with Spencer and Schäffle, press very far the analogy of society to the physical organism. He lays much stress on the question: What fact is it that distinguishes a society from all other aggregates in the world, as assimilation and cell division distinguish the organism, or as numerical atomic relations distinguish the chemical elements? His answer is that this fact is contract; not contract in the technical legal sense, but voluntary agreement, consent or understanding between two or more self-conscious persons. Social progress he therefore conceives as the steady replacement of relations maintained by force by relations based on consent.

Les Lois Sociologiques is not a part of the *Introduction à la Sociologie*, but a publication of the opening lectures of the course on sociology delivered at the University of Brussels last fall. It may be pronounced without hesitation the best discussion of sociological law — that is, of natural law in social phenomena — that has yet appeared in any quarter, and for the reason that the author not only tells us exactly what he means by a sociological law, but gives numerous concrete examples to illustrate that meaning. Causes, he says, are the more general relations of likeness and difference, of coexistence and sequence, to which we refer a particular phenomenon. A law is a necessary (*i.e.* an unvarying) relation between the phenomenon and the conditions in which it appears. Taking these definitions, we certainly can discover cause and law in society. An example of an economic sociological law is the reduction of the proportion of dead weight to total pounds of freight moved as commerce increases. Examples of sociological law in genesic phenomena are found in the statistics of illegitimate births; in moral phenomena in the statistics of suicide; and in phenomena varying with juridical conditions in the statistics of infanticide. Though these examples in themselves are not new, they acquire a fresh significance in Dr. de Greef's presentation and use of them.

Taken together, these monographs will afford the discriminating reader a good insight into the probable present and future tendencies of sociological inquiry. Each contributes something essential to a science that unquestionably is now incomplete and confused, but which certainly will in time assume a more definite outline and a surer tone.

F. H. GIDDINGS.

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Preussisches Stadtrecht. Die Verfassung und Verwaltung der Preussischen Städte, systematisch dargestellt von Dr. EUGEN LEIDIG. Berlin, Siemenroth und Worms 1891. — xiv, 552 pp.

This little work on the Prussian law of municipal corporations can hardly fail to arouse envy in the student of the American law on that subject. The simplicity resulting from the embodiment of most of the law in statutes, the existence of general laws incorporating municipalities and fixing the powers of municipal authorities, the entire absence of anything like constitutional limitations, which are practically unknown to the German system — all make it a comparatively easy matter to present a complete sketch of the law in a small compass. Moreover, the study of administrative law is much more general and more thorough in Germany than in America, and greater influence on the development of the law is exerted by commentators. The result is a more systematic arrangement of the material than is to be found in most American text-books, with additions of a historical character which make books like the one before us, though intended primarily for officials and practising lawyers, of great interest to the reader whose studies are not of an absolutely technical character. The historical introduction to the present work consists of about thirty pages. While probably adding nothing to what is known on the subject, it is still so clear and succinct as not only to explain satisfactorily certain peculiar provisions contained in the present Municipal Corporations Acts, but also to offer to one not in search of information on points of detail an admirable sketch of the origin and development of municipal institutions in Germany, and of the methods by which practically sovereign communities have been reduced to the position of merely subordinate, though still important, administrative instrumentalities.

The arrangement of the main body of the book, *i.e.* the portion dealing with the law, may be studied with profit by those who do not intend to pursue very far the study of foreign law. The territorial and personal basis (*i.e.* citizenship and membership) of the city is first taken up. This is followed by a description of municipal organization, and finally by a discussion of the actual work performed by the city. In this connection its private legal relations are first disposed of, and finally attention is directed to its public legal relations. As is only natural in a country where the influence of the feudal system is still seen in the independent sphere of action recognized by law as belonging to municipal corporations, the function of such bodies as organizations for the satisfaction of local needs is carefully distinguished from that discharged by them as agents of the central government. Further, the tax system is treated with great fulness, and many economists will

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find interest in the description of the system, such as it is, of assessments for local improvements.

Finally, it should be added that while the book treats primarily of Prussian law, in more than one instance the author wanders farther afield and includes within his observation the law of Germany in general. Here, however, the treatment is not so full and the citations, which are very numerous in the purely Prussian portion of the work, fail almost entirely.

F. J. G.

L'Europe et la Révolution Française. Par ALBERT SOREL. Première Partie, Les Mœurs Politiques et les Traditions; Deuxième Partie, La Chute de la Royauté; Troisième Partie, La Guerre aux Rois, 1792–1793. Paris, Librairie Plon, 1887, 1889, 1891.—562, 574, 556 pp.

The time has come when the great democratic upheaval of the last century can be studied in a truly scientific spirit. So long as democracy was by one party admired as altogether good, and by all others condemned as wholly bad, this was impossible. But now that the critical period has been reached, it is no longer necessary that writers should assume either the attitude of Burke or that of Thiers. A tone of impartial criticism, rather than one of apology or of undiscriminating censure, is now demanded. The great works of von Sybel and Taine have met this requirement with a high degree of success. A half-century ago de Tocqueville pointed out the way through which to reach conclusions of truly scientific value in this field. M. Sorel evidently recognizes him as a master and, guided by his spirit, reaches equally gratifying results. Unlike Taine, M. Sorel has treated the revolution from the standpoint of diplomatic relations, and has perhaps shown greater sympathy with the movement as a whole. His work is the French counterpart of von Sybel's great history. The German has drawn more largely from the archives and original documents; the Frenchman has introduced into his volumes more material derived from the memoirs and general political literature of the period. By using the two works together it becomes possible to see how the same events look when viewed from opposite banks of the Rhine.

To M. Sorel the revolution was the natural outgrowth of the previous history of Europe. Therefore he reaches his point of view by a detailed study in the first volume of the ideas and policy prevailing under the old régime. He finds that during that period Europe was destitute of ideals. Political expediency was the principle of action; intrigue and force were the means. The objects deemed most ex-

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pedient were not those which would contribute to social well-being, but those which gratified the ambitions of dynasties. Conquest was the prime object of policy, wars waged for that purpose being supplemented by an unscrupulous diplomacy, by partitions and, if necessary, by the dethronement of monarchs. The author sees in the War of the Austrian Succession and in the partition of Poland the last will and testament of old Europe.

The enlightened monarchs, Frederick II and Joseph II, contributed to the overthrow of the existing system because they attacked both by word and deed its most cherished traditions. But the ideas from which reform was to proceed originated in France. The reason for this was not that the evils of the old régime were greater there than elsewhere, but that France, through the more complete ruin of feudalism, had advanced to a higher degree of unity than any other continental state. The object of the revolution was to subordinate political expediency to the rules of social order as ascertained by the reason; it was not to destroy the state but to control the exercise of its sovereignty in the interest of the people. Political liberty must be secured, and all other benefits would follow in its train. In France the revolution would then result in the perfecting of national unity. Abstractly considered, the object might be reached by a series of domestic reforms peacefully carried into execution. But in reality France had her traditions; she was situated in the midst of Europe; her king was not a man who was able to put himself at the head of the democracy and lead in the work of reform. Among the French traditions which now exerted great influence, were the feeling of opposition to Austria (which had been greatly strengthened by the losses of the Seven Years' War) and the desire to extend the national boundaries to those of ancient Gaul. Moreover, the ideas at the basis of the revolution were universal in character and led to the practical conclusion that democracy was the proper form of organization and government for all states. Hence there existed a tendency toward propagandism. Owing to the lack of proper leadership, it was necessary that the revolution should proceed to extremes in France. The kingship was hopelessly discredited from the first. The Girondists, in order to keep themselves in power, sought to gratify the demand for natural boundaries. That brought the revolution into conflict with Europe, and the ideal of peaceful reform was abandoned. Those indeed who cherished this ideal had forgotten that France had a history.

The European courts failed to realize the significance of events in France. They were busy with their former plans until forced to prepare for attack. They then thought to crush the movement by conquest, and by exchanges of territory to indemnify themselves for losses

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incurred in the effort. This was the traditional mode of procedure and it had worked well in the case of small and less consolidated states. But when applied to France it roused the spirit of nationality to a passion. The thought of liberty was lost in that of unity. On the plea that the republic was in danger one faction after another was overthrown, till the Jacobins were installed in power. They were allowed in the name of liberty to commit the most atrocious crimes, while the nation armed itself for defence and for the recovery of the Gallic boundaries. In the army of 1792 and 1793 the author finds the noblest expression of the revolutionary spirit.

But the true ideals of the revolution had been already forgotten. Its leaders had adopted the policy of the old régime. They now relied upon force — upon conquests, partitions and, if need be, dethronements. As they were backed by the enthusiastic support of the nation, they could carry out this policy upon a scale much larger than had been possible for the older monarchies. In this we see the reaction of Europe upon the revolution, essentially changing its objects and methods. The love of military glory became stronger than at any time since the crusades. The old hatred of England flamed up anew. It was believed that England not only must be but could be destroyed, the latter conviction being based on a notion inherited from the previous century that the island kingdom was rent with dissensions. The traditional jealousies of Austria and Prussia, the weakness of the small states of the Empire, the complications arising from the Polish and the Eastern questions, themselves an inheritance from past centuries, furnished additional temptations to the French to abandon their original purposes and to become armed propagandists. Europe was paid in its own coin, but at the same time the cause of the revolution was hopelessly lost. New social, political and intellectual forces were set to work, however, which in later times and under more favorable conditions were to produce throughout Europe the results at which the early revolutionists aimed.

These, if the reviewer has interpreted them aright, are the leading thoughts in M. Sorel's work. He has shown with great clearness the character of the environment within which the revolution had its origin; he is now showing with equal thoroughness the effects which that environment produced upon the revolution during its successive stages. To my knowledge no previous writer has treated the subject from just this standpoint. For this reason we have in these volumes a most important contribution toward the correct understanding of a great episode in the history of France and of Europe.

HERBERT L. OSGOOD.

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Patrick Henry. Life, Correspondence and Speeches. By WILLIAM WIRT HENRY. Three volumes. New York, Charles Scribner's Sons, 1891. — xx, 622; xv, 652; 672 pp.

In a biography it is difficult to draw an exact line between the individual and the times in which he lived; between the personality of the subject and his relative position in history. Of the personal traits of Patrick Henry all that could be said had already been stated by Wirt and Tyler; and Tyler had presented a very fair attempt to determine the part of Henry in Virginia and in national history. I say attempt, because much was left unexplained, and much was of necessity omitted as not suited to a short sketch of his career. It was hoped that these omitted details would be found in the three handsome volumes of Mr. Henry's work; but I must frankly confess to a feeling of disappointment. The personalities of Wirt are incorporated, sometimes word for word; the reminiscences and memoranda made years after the events, and relating to comparatively unimportant matters, such as voice, dress or casual remarks, are repeated in full; and much material accessible in other places is inserted. Care, industry and a certain enthusiasm are shown; but these cannot make up for the want of a sense of proportion, and for the overloading with what hardly rises above the level of gossip. It is possible to accept the stories of Henry's precocity, of his retentive memory, of his marvellous eloquence and of his power to sway and dominate popular feeling. Yet these facts do not explain why Henry was six times elected governor of Virginia; why he used his popularity in such a way as to shake the confidence of Jefferson as well as of Washington or Madison; why, with every reason to accept the constitution, he played against it; and why the many outbursts of almost frenzied eloquence have left little but the record, and made no permanent impress upon the policy of state or party.

The opportunity offered to the biographer was a good one; for Henry was distinctly a man of the people, without family or property to give him position, and with every prejudice of an aristocratic society to overcome. His personality must have done much to give him influence; for we find so cool a judge as Mason describing him in 1774 as "the first man upon this continent, as well in abilities as public virtues," and stating that his "eloquence is the smallest part of his merit." Without education, without a profound knowledge of law or history, without special capacity as a writer and without the patience and industry to master details, he excelled in large statements, general maxims and grand impressions. Before the Congress of 1774 he had attracted local attention by his plea in the parson's cause, by his attack upon the defaulting treasurer, Robinson, and by his activity in the Stamp Act

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agitation and in the committee of correspondence. It is much to be regretted that in reference to this formative period, when he was laying the foundation of his subsequent fame, contemporary records are almost wholly wanting. The first letter of Henry known to the author is dated 1773; and for his life previous to that date dependence is placed on the recollections of men of that time, written long after the occurrences, and naturally colored strongly with the later ideas of his character. Yet we may form a general idea of the part he played during the controversial or preliminary stages of the Revolution — that of the fiery, impetuous orator, skilled in every art of moving the people; one of those necessary adjuncts to every agitation, a man capable of leading because of a strong sense of injury and wrong and a superior faculty for awakening this sense in others. Samuel Adams in Massachusetts and Patrick Henry in Virginia were of a like mould, and a parallel could be drawn between their sentiments as well as their methods.

Such a character makes a good leader of opposition, but is not so well adapted for administration. Henry gave the keynote in more than one crisis — the parson's cause, the resolutions on the Stamp Act and on independence, on religious toleration and in hostility to the federal constitution. In such activity lay his great strength, and it is not a little curious that he should have entertained the ambitions of a soldier; fortunately for him these aspirations were summarily set aside. As governor, he served from 1776 to 1779 (three terms) and was spared the ordeal reserved for his successor, Jefferson, — an actual invasion of the state. That he made a fair executive is not to be questioned; but Virginia has greatest reason to remember his service for his realization of the importance of the western country, and the countenance he gave to George Rogers Clark. Apart from that one transaction it would be difficult to link his name with any particular act or policy of the war. On the return of peace, when his influence was dominant in the assembly, he had every opportunity to prove himself a constructive statesman, capable of framing measures demanded by the welfare of the state. Yet though his name is mentioned again and again as favoring one bill or opposing another, and generally with decisive results, he cannot be shown to have originated an important act of legislation. Indeed, he was in his sympathies moved too much by his love of popularity. In advocating a "stay law" he gave support to a measure that was as vicious in principle as in practice; but it promised relief to the people. This error was offset by the support he gave to the impost law of 1783, and by his wish to strengthen the central government. Again he was on the wrong side when the question of British debts came up for a decision; and his fears of a strong federation assumed overwhelming proportions when the new constitution was laid before the people. His interest in

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the West led him to appreciate at its true worth the navigation of the Mississippi; but on the grand question of the day, the constitution, where this Mississippi matter largely determined Henry's position, it was truly said by Washington that the arguments in opposition were "addressed more to the passions than to the reason." Had the great orator been something more than a politician, he would not have committed himself so strongly in resistance to the proposed form of government.

But his position in this matter at least proved the courage of the man. It was characteristic of Henry that once enlisted, he never faltered; and his power seemed to grow in proportion to the opposition. He did not, like Dickinson, state boldly, and fail when to maintain his position involved sacrifice or danger. His steadfastness, however, cannot atone for the errors of his policy. Henry will be better known for his resolutions on the Stamp Act and for some of his speeches, the traditions of which have come down to us, than for any other incidents of his life. He will be the Virginian "Demosthenes," but will never take rank as a statesman.

As to the way in which the author of the present work has performed his task, adequate criticism is scarcely possible in this notice. The views of Mr. Wirt Henry on the amendments to the constitution are novel, and his statements of history not infrequently excite a questioning doubt. He naturally holds a brief for his ancestor, and is much occupied in defending him from the criticisms of Jefferson, Tucker, Taylor and others. With these blemishes, rather than faults, the three volumes contain much new material, and must be the standard biography of a notable figure in Virginian history.

WORTHINGTON CHAUNCEY FORD.

A History of the People of the United States, from the Revolution to the Civil War. By JOHN BACH MCMASTER. Volume III. New York, D. Appleton and Co., 1892. — 8vo, xvii, 582 pp.

The third of the systematic histories of the Union from its formation to the attempted secession in 1861 is advanced by a volume. Von Holst and Schouler have finished their task. Professor McMaster has now progressed as far as the outbreak of the war of 1812. He covers ground which neither of his rivals has treated in detail: but he has at every step to submit to the formidable comparison with Henry Adams's masterful work. He bears the comparison well.

The third volume (1803–1812) shows the deviation from the author's original plan seen in Volume II. It is no longer a social but a political history; yet a political history of a different kind from any that have

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preceded. Perhaps a more accurate title would be: "A History of Public Opinion in the United States." The author constantly strives to set before us, not so much what happened or what were the intentions of the leaders, as what the people were thinking about. Hence his work has a peculiar value to the student. Here are to be found in brief compass the arguments which were days in the uttering and which cover many pages of the *Annals of Congress*. Here are the accounts of public meetings and memorials, drawn from files of forgotten newspapers. Here are abstracts of old pamphlets, with the quip modest and the retort courteous. As in the previous volumes, this material is not always skilfully presented. Instead of happy illustrative quotations the author prefers a restatement in his own words, much resembling the indirect discourse of Cæsar's *Commentaries*. An example is the famous secession speech of Josiah Quincy in 1811 (page 377); the pith and force are much impaired by the form into which it is cast. One is often not quite sure whether the author is stating his own sentiments or those of contemporaries; whether the opinion thus presented in abstract did or did not finally prevail. The footnotes seem less numerous and less valuable than in the earlier volumes. Except for the references to newspapers and to rare pamphlets, there is little new material made available to other students. Indeed the author has not furnished the guidance to the more common materials which would have made up for the lack of precise citations in Hildreth, Schouler and Adams. The dates are not quite liberally enough bestowed, and it requires sometimes an effort to find out where one is. Of the two maps, that showing the territorial development of Ohio is especially valuable.

Professor McMaster's style has in it the life and stir with which his previous works have made us acquainted. It is crisp and direct, yet it leaves upon the mind less specific impression than some homelier books. The effort to be smooth leads to a trick of making up artificial transitions where there is no logical continuity of thought. Let us take an example (pages 16–19): The city of New Orleans was supplemented by a new town, resulting from the influx of strangers; with the strangers had come trade; of this trade the streets of the city gave no indication; the streets were lined by much-admired buildings, but there were no taverns; instead people crowded to the levees; on the levees walked quadroons; quadroons could not enter the lower boxes of the theatre; theatres were open on Sunday; people who on Sunday went out to the Tivoli Gardens hastened back to avoid the Alcade; the Alcade was part of a strange municipal government; the municipal government was closely connected with the provincial government. This is a chain of silver links united by pack-thread. Another peculiarity is the Walt Whitman habit of enumerations:

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At either river bank [he says] could be procured at a moment's notice canoes cut from a single log, pirogues able to carry fifteen barrels of salt, skiffs of from five hundred to twenty thousand pounds burden, bateaux, arks, Kentucky broadhorns, New Orleans boats for use on the Mississippi River, and barges and keel-boats with masts and sails.

Doubtless the author intends the list to leave on the mind the multifariousness of the trade: but the effect is a little fatiguing. A more serious defect is the rhetorical flourish which rounds out a statement into striking form. The New York voter, we are told, must "carry in his pocket a tax-receipt" (page 147). Judge Chase's charge was "read by Jefferson with astonishment and delight" (page 169). "No act so arbitrary, so illegal, so infamous had yet been done by the Senate of the United States," as the impeachment of Pickering (page 173). "The framing of the Constitution of the United States was the direct and immediate consequence of the ruin of every kind of trade, commerce and industry" (page 496). "The Berkshire Hills were covered with sheep" (page 504). Such sweeping statements carry no conviction and they make one feel uneasy.

A different sort of confusion is produced by the long parts of chapters which bring up arrears. The place for a discussion of the land cessions from 1781 to 1802 is plainly in the first volume. A reference to Volume II on the Orders in Council of 1793 and 1794 ought to save several pages in the present volume; and surely to save space is worth while, since it is evident that a history which takes three long volumes for the thirty years from 1783 to 1812 cannot compress into the promised two volumes the eventful fifty years from 1812 to the Civil War.

Considering the quantity of detail in the volume, the positive errors are few and of no great importance. The first Indian treaty was not in 1784 (page 153) but in 1778. No part of Tennessee was ever "public domain" (page 117); the North Carolina grants covered it. Lewis and Clark's expedition (page 142) was planned before the Louisiana cession was made. Jefferson did not deny the legal right of Adams to sign commissions (page 165), and was obliged to remove appointees who had received their commissions. Erskine's treaty was not disowned immediately, but after two or three days (page 348). Neither house of Congress ever had "ten thousand bills on its calendar" (page 399); or saw ten thousand bills introduced, before 1888; and Congresses now put on the statute book nearly two thousand statutes, instead of four hundred. If there was an "utter want of national feeling" in 1812 (page 465), it is difficult to see how the country went through three campaigns in the three years following. Mr. Adams has disposed of the statement that where the war was unpopular, inducements to enlist accomplished nothing (page 543). On pages 497 and 515, 1793 is printed for 1790.

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The great merit of this work is that the author has struck out a new path for himself. His plan is deliberately formed and effectively carried out, and it makes a valuable contribution to historical science. In order to find space he has chosen to omit much of the most interesting part of history. He deals with our foreign relations almost entirely as if they were confined to negotiations in America. He denies himself that skilful characterization of men which lends such a charm to Adams's history; it does not fall within his plan to express his own judgment of men or events, or to unravel the intricacies of human nature. Hence the volume is lacking in color and, to a certain degree, in interest. These omissions are made in order to leave room for a kind of information neglected by other writers; the volume abounds with new material and with new views. The author gives us the details of the famous prize cases to which there are so many allusions; he brings out the political meaning of the new West; he gives us a new idea of the development of states; he revives the passion of the popular movement against the embargo. The difference between his plan and that of Henry Adams is brought out by comparing the chapter on the "Economic State of the People" with Adams's final chapter on "American Characteristics." The latter seeks the subtle undercurrents of the nation's life; the former aims to set before us the material condition of the average American. Each accomplishes his purpose. Professor McMaster has produced an unique and an indispensable volume.

ALBERT BUSHNELL HART.

Le Gouvernement dans la Démocratie. Par ÉMILE DE LAVELEYE. Two volumes. Paris, Félix Alcan, 1891. — xv, 387, 472 pp.

A man of indefatigable industry and of wide experience of men and things, the late Professor de Laveleye has given to the world, at the end of a long life devoted to the study of social and political questions, the result of his observations and his reflections. The work cannot fail, therefore, to interest not only students in these subjects, but the general public as well. M. de Laveleye tells us that he had collected the materials for a work on political economy, but at the suggestion of his friend Dupont White he changed his plan and wrote one on politics instead. As the "great problem of government" is, however, in his opinion economic and social rather than political, this previous preparation would render him peculiarly fitted for the new task which he had set before himself. In fact, a distinctive feature of the book is the conception of government from an economic and social point of view. The acquisition of political liberty by the masses not having brought to

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them the anticipated prosperity and happiness, the general unrest is greater to-day than ever before; the inequality of social conditions is still present to whet the keenness of their discontent. Accordingly a new conception of the rights of man is being formulated, in which this social inequality shall not appear. M. de Laveleye sees in the present spirit of the laboring classes a grave source of future dissension; and his purpose in the work before us is to determine what institutions or what form of government will best surmount the difficulties which all nations will be called upon to meet.

In method the book is a statement of facts and opinions rather than an *a priori* treatment of the subject. The first volume deals for the most part with the fundamental principles of politics — principles which have occupied the minds of the profound thinkers of all ages. M. de Laveleye necessarily restates many well-worn maxims, and old theories are given new interest at his hands by being brought to the bar of recent history and experience. In this part of the work, perhaps the most striking chapters are those dealing with the mission of the state, the dogma of individualism, nationality, the relations of church and state, and liberties and their guarantees.

Those acquainted with M. de Laveleye's earlier writings need not be told that the dogma of individualism finds no place in his scheme of government. While stopping short of extreme socialism, he believes that the state has an important rôle to play in aid of the individual; and especially should it undertake to repair the inequities of the past, and to the extent of its legitimate power prevent social inequalities in the future. The present condition of individuals is the consequence, not of their merit or their demerit, but of ancient spoliations, of hereditary privileges and iniquitous laws which have never been repealed. The progress of civilization, moreover, means the increase of all the activities and complexities of society, which, in the government of the future, will necessitate more rather than less regulation on the part of the state.

As to forms of government, M. de Laveleye is in favor of democracy, either as republic or as limited monarchy; and yet there are in his opinion conditions essential to its success. Before political power can be safely lodged in the hands of the laboring classes, something should be done to ameliorate their condition. In the first place, as some degree of intelligence is a fundamental requirement for those who take part in governing, universal instruction should precede universal suffrage. It is the duty of the state, therefore, to see that instruction be free, compulsory and non-sectarian. But education alone is not sufficient to transform the ignorant masses into good citizens, so long as the cause of social discontent remains. The remedy here must be by a more

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equal distribution of property. M. de Laveleye does not contemplate a forcible division of existing property; but a more equitable distribution is to be brought about indirectly by inculcating in the laboring classes, through the schools, the methods and habit of saving, by facilitating the acquisition of property, and by changing all laws which favor its concentration in a few hands. The state, too, is to look after the welfare of its citizens, on the one hand in suppressing vice, by prohibiting the manufacture of alcohol, and on the other hand in promoting the nobler sentiments, by making liberal expenditures for public buildings and works of art. But the state cannot do all things in this model democracy; much must necessarily be left to individual initiative. The rich should set an example of simplicity to the poor; they should employ their surplus, not in material pleasures or the unhealthy satisfaction of vanity and pride, but in works of general utility. "Luxury on the part of individuals should have no place in a democracy."

Thus to assume the unselfishness of the rich, to the extent indicated above, as a factor in the success of his future government, would seem very much like begging the question. The selfishness of capital is one of the serious difficulties of the social problem; it is a potent cause of much of the very discontent of the masses. Measured, therefore, by the standard of practical statesmanship, this part of M. de Laveleye's scheme will appear, to say the least, somewhat visionary. It should be said, however, that M. de Laveleye believed strongly in the ideal as a force in the social order; and he saw in the generous gifts of individuals for public purposes, especially in the United States, the dawn of hope of a new era.

Perhaps the most interesting and useful part of the work, at least for students, will be found in the chapters on the "Parliamentary Régime." In treating of this subject, M. de Laveleye is on more solid ground; it is not so much a speculative question as it is a comparison of the systems in actual practice. In the constitutional governments of the present century, three systems have been developed, each of which represents a distinct method of expressing the popular will. These are (1) cabinet government, originating in England, and adopted by most of the continental states of Europe; (2) presidential government, originating in the United States; and (3) the Swiss system of the *referendum*. The first of these systems M. de Laveleye rejects, as not adapted to the modern democratic state. Its chief defects are, in his view, the excessive influence of parties, the instability of ministries and the absence of all individual initiative and originality in political matters. Its weakness and insufficiency have been, he thinks, fully demonstrated by the experience of those European states which have imported it from England.

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The American system, though not perfect, was regarded by M. de Laveleye as avoiding to a great degree the defects of cabinet government, and as meeting more nearly the requirements of democracy. It is more stable; and it "sets limits to the abuse of the power of the majority, which is the more necessary as institutions become more democratic." The positions of the President and the Senate appear to him especially commendable; and even the committee system of the House of Representatives might be made highly useful in legislation, provided the speaker were shorn of his power of appointing the committees. But it is in the system of local self-government, as established in the United States, that M. de Laveleye sees the best promise of democracy.

The chapters on the *referendum* show a careful study of the Swiss constitution, and will be found of much interest. The system seems to have worked well in Switzerland; but it should be noticed that the conditions have all been favorable; Switzerland is a small federal state with few large cities, and her people are intelligent and long accustomed to self-government. While, therefore, our author finds many advantages in this system, he expresses some doubt as to the advisability of introducing it into a great centralized state.

On the whole, this last work of M. de Laveleye shows a wide acquaintance with facts rather than a profound comprehension of the subject. He too often gets his information at second-hand; this is especially noticeable with respect to the institutions of the United States. Of the governments of continental Europe, however, he has made a more careful study; and the result, as now given to the public, is a mass of information upon the most recent phases of economic and social movements in their relation to government which will be particularly useful to students. Perhaps the book will be valued, not so much for the opinions of the author, as for the historical light he has thrown upon some of the new and intricate problems of the day. Whether one agrees with the conclusions of M. de Lavelye or not, he will find the work of great interest and full of instruction; if it is not absolutely authoritative, it is at least exceedingly suggestive.

FREEMAN SNOW.

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RECORD OF POLITICAL EVENTS.

[From November 1, 1891, to May 1, 1892.]

I. THE UNITED STATES.

I. National Affairs.

FOREIGN RELATIONS. — The Behring Sea negotiations have at last been brought to a definite conclusion. Correspondence in respect to the details of the proposed arbitration dragged along throughout the summer and winter, without any important results save the postponement of the question of damages for further negotiation. The treaty was signed by the negotiators, Secretary Blaine and Sir Julian Pauncefote, February 29. Its chief features are as follows: A tribunal of arbitration, consisting of two members appointed by each of the contracting governments, and three others named respectively by the President of the French Republic, the King of Italy and the King of Sweden and Norway; the arbitrators to meet at Paris; five questions to be submitted to the tribunal, namely: (1) What exclusive jurisdiction in the sea known as the Behring Sea and what exclusive rights in the seal fisheries therein did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States? (2) How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain? (3) Was the body of water now known as the Behring Sea included in the phrase "Pacific Ocean," as used in the treaty of 1825 between Great Britain and Russia and what rights, if any, in the Behring Sea were held and exclusively exercised by Russia after said treaty? (4) Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Behring Sea east of the water boundary in the treaty between the United States and Russia of the 30th of March, 1867, pass unimpaired to the United States under that treaty? (5) Has the United States any right, and if so what right, of protection or property in the fur seals frequenting the islands of the United States in Behring Sea when such seals are found outside of the ordinary three-mile limit? If the decision on these questions renders necessary the co-operation of Great Britain in establishing regulations for the protection of the seals, the arbitrators are to determine what such regulations should be. When in February it became evident that the decision of the arbitrators could not be reached in time to govern the approaching season, Mr. Blaine began to press for a renewal of the *modus vivendi* of last year. On the basis of the report of the British commissioners that there was no danger of any serious diminution of the fur-seal species in consequence of this season's pelagic hunting, Lord Salisbury, under pressure from the Canadian government, objected to the renewal. The United States, however, protested vig-

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orously against any derogation of its claims while their justice was under consideration by the arbitrators, and declared that unless Great Britain would co-operate in preserving the seals, the United States would be compelled to take measures alone for that purpose. This brought up again the much discussed question of damages, and on March 26 Lord Salisbury expressed a willingness to renew the *modus vivendi*, on condition that authority be given to the arbitrators to assess the damages sustained during the pendency of the arbitration by the successful party — by Great Britain through the prohibition of pelagic sealing, by the United States through the limitation of hunting on the islands. He also offered to submit to the tribunal the question of losses inflicted by either of the governments on subjects of the other since 1885. On March 29 the Senate, which, while the renewal of the *modus vivendi* appeared doubtful, manifested some opposition to the treaty, ratified the instrument unanimously. In the meantime, on the day the treaty was signed, the Supreme Court gave its decision in the case of the Canadian sealing vessel which had been seized and forfeited in Alaska (see RECORD for June, 1891, p. 378). The writ of prohibition asked for was denied, but on technical grounds, thus avoiding the broad question of the government's jurisdiction in Behring Sea. The formal renewal of the *modus vivendi* was submitted to the Senate April 18 and ratified the next day. The agreement is in identical terms with that of last year, except that its duration is measured by the pendency of the arbitration, and two additional articles formulate the understanding in reference to damages. It is noteworthy that the basis of the damages is to be such a catch, as, in the opinion of the arbitrators, "might have been taken without an undue diminution of the seal herds." — **The strained relations with Chili** continued to be the most conspicuous feature of our foreign affairs until the end of January. The two chief subjects of controversy were (1) the Balmacedan refugees enjoying asylum in the American legation and (2) the assault on sailors from the United States cruiser *Baltimore*. Out of the continuance of the refugees in the legation and the surveillance to which accordingly the legation was subjected by the Chilian government arose a number of vexatious incidents, which were the subject of a copious and at times acrimonious correspondence between Minister Egan and Señor Matta, the head of the foreign office. A solution of this difficulty was reached in the middle of January, when Mr. Egan, with the tacit consent of the Chilian authorities, escorted the refugees to Valparaiso and placed them aboard the United States gunboat *Yorktown*, which conveyed them to Peru. The Chilian government persisted to the end in refusing Mr. Egan's request for passports for the refugees. In the matter of the assault on the *Baltimore's* sailors, a rather more threatening situation was developed. As was stated in the last RECORD, the first demand of the United States for an explanation was parried by Chili's assertion that she could do nothing until the judicial investigation had been completed. This investigation proved to be a tedious process, and many incidents in connection with it served to embitter feeling on both sides. President Harrison's message at the opening of Congress announced that he had heard no explanation of the affair other than that it originated in hostility to the uniform of the United States. He regretted the offensive tone of Chili's answer to his request for an explanation, and declared that if at the conclu-

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sion of the criminal court's process at Valparaiso some satisfactory answer was not forthcoming, he would call upon Congress for necessary action. Secretary Tracy's report also contained an account of the affray which reflected very severely on the Chilian authorities. As a response to these documents, Señor Matta, on December 11, sent to all Chilian ministers for their information and for publication an aggressive statement of his view of the case, abounding in severe allusions to Minister Egan. It declared that "the statements on which both report [of Secretary Tracy] and message [of President Harrison] are based are erroneous or deliberately incorrect"; that "there is no exactness or sincerity in what is said in Washington"; and it expressed confidence in the final success of Chili, "notwithstanding the intrigues which proceed from so low (a source) and the threats which come from so high (a source)." Upon the publication of this note Mr. Egan suspended communication with the Chilian government. Public feeling in both countries became much aroused, and great activity was displayed by the Navy Department, looking to the possibility of hostilities. Meanwhile the provisional government in Chili was superseded by the permanent government late in December, and with the disappearance of Señor Matta from the Department of Foreign Affairs, a more conciliatory attitude was revealed. The United States now began to move for a withdrawal of the offensive circular of Señor Matta, and with signs of success. On January 4, a review of the evidence by the prosecuting attorney at Valparaiso was presented, confirming in the main the Chilian government's contention that the affray originated in a quarrel of drunken sailors, that it could not be regarded as having had any elements of an attack on the dignity of the United States, and that in the whole affair the police had done their duty. Under date of January 21 Secretary Blaine forwarded the ultimatum of his government. This announced the President's conclusions, from all that the Chilian government had submitted to him, (1) that the affair of October 16 was an attack upon the uniform of the United States navy and originated in hostility to the government; (2) that the public authorities of Valparaiso flagrantly failed in their duty to protect the sailors; and (3) that, recurring to the original position of the government, he must ask of Chili a suitable apology and adequate reparation for the injury done to the government of the United States. In respect to the Matta note, the ultimatum declared that unless its offensive expressions were at once withdrawn, with a suitable apology, diplomatic relations would be terminated. A demand for the recall of Minister Egan as a *persona non grata*, which was presented at Washington January 20, was left unanswered until a reply should be received to the ultimatum. On January 25 President Harrison communicated to Congress the whole correspondence, with a message reviewing and defending the action of the government and suggesting the enforcement of its demand for reparation. On the same day Mr. Egan telegraphed the Chilian government's reply. It withdrew with a satisfactory apology the expressions in the Matta note, and while mildly intimating a confidence in its own conclusions as to the Valparaiso affair, expressed regret at the unavoidable delay in punishing the participants, and in view of this delay, offered to submit the question of reparation immediately to the Supreme Court of the United States. As to Mr. Egan's removal, it

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said that Chili would "take no positive step without the accord of the government of the United States." In a message on January 28 President Harrison submitted this reply to Congress, declared that he regarded it as satisfactory, and expressed the conviction that under the circumstances the further adjustment of the matter could proceed without special powers from Congress. On March 1 the claims of the sailors for compensation on account of injuries received in the riot at Valparaiso were filed with the State Department, to a total of $2,065,000. — A satisfactory **termination of the difficulty with Italy** growing out of the New Orleans riot in March, 1891, was reached April 12, through the voluntary tender by the United States of $25,000 to be distributed by the Italian government as indemnity to the families of the victims. This indemnity the President declared it the solemn duty of the national government to pay, though the injury was not inflicted directly by the United States. The Italian government in fit terms acknowledged the indemnity as satisfactory and declared diplomatic relations re-established. Ministers Fava and Porter were immediately ordered to resume their residence at Washington and Rome respectively. — Extradition treaties have been negotiated with both France and Germany, and on April 16 ratifications were exchanged of a copyright treaty with the latter government.

INTERNAL ADMINISTRATION. — The report of the Secretary of the Treasury showed a surplus for the year ending June 30, 1891, of $37,239,762.57, or $20,000,000 less than that of the preceding year. This difference was due much more to increase in expenditure than to falling off in receipts. For the ensuing year the surplus was estimated at $24,000,000. The secretary reported that in carrying out the policy of withdrawing public funds from the national-bank depositaries, the year ending November 1, 1891, showed a reduction of twenty-one in the number of depositaries and of $9,830,810.76 in the amount of deposits. The work of withdrawal, he said, had been conducted with great care so as not to disturb business interests. As to the currency, the report announced an increase in the circulation from $23.41 to $24.38 *per capita* between July 1 and December 1, 1891. Causes contributing to this were: the return of gold to the United States in consequence of the huge grain exportation; the working of the silver coinage law; and the redemption of 4½ per cent bonds. — **The working of the coinage act** of July 14, 1890, has been very anxiously watched. The total purchases of silver bullion under the act up to November 1, 1891, was 66,588,536 fine ounces, at an average cost of $1.03 per ounce. The effect of this purchase on the market price of silver has not been what the advocates of the act expected. Since August, 1890, when the price was $1.21, the price, with considerable fluctuations, has tended steadily downward, and on November 1, 1891, it was $0.96 per ounce. At the end of the winter Secretary Foster paid a visit to England, where he is supposed to have conferred with Mr. Goschen as to the possibility of international co-operation in sustaining the silver market. The coinage of silver dollars practically ceased December 22, with the completion of the work of converting the trade-dollar bullion into standard dollars. All silver now purchased is stored as bullion. — The administration of the **Chinese exclusion acts** has occasioned a great deal of trouble to the treasury officials. Many Chinamen are seeking to enter the country from Canada, and

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when they are not qualified for admission by our laws an uncertainty exists as to whether they are to be returned to Canada or to China. The judicial decisions are conflicting on this point; and in case a Chinaman is returned to Canada a new complication may arise from the requirement of the Dominion law that a head tax of $50 be paid on each Chinese immigrant. The confusion on the subject has been influential in suggesting the new legislation noticed below. — **The commission on emigration**, which was appointed to investigate in Europe various features of the movement to America, reported in February. Several reports were submitted by the individual commissioners. As to the primary causes of emigration, nothing novel was developed. As to the extent to which it is encouraged by transportation companies, the commissioners agree that the companies show a disposition to restrain their agents from illegitimate activity in stimulating emigration, and are stringently enforcing new regulations devised for this purpose. So too with reference to contract laborers, the legislation to prevent their importation is found to be effective; and the shipment of paupers and defectives by local authorities is reported to have practically ceased, though there are abundant evidences that it was formerly a common practice. One of the commissioners believes that in Great Britain there is a systematic movement in operation for sending convicts to the United States, but he finds nothing of a similar kind in any other country. All the commissioners agree that the scheme of consular inspection, as a means of limiting immigration, is impracticable, and that the ends sought through this scheme may best be attained by holding steamship agents responsible for the cost of returning the ineligibles.

The Navy Department. — In the report of the secretary the chief points of interest were: the defence of the officers and seamen connected with the Chilian incidents; the account of the progress in the creation of the new navy — which Mr. Tracy declared to be wholly satisfactory; and the defence of the policy recently adopted of excluding political patronage from the navy-yards. The secretary pointed out the enormously higher degree of skill and efficiency required in the construction and repair of the modern steel war vessels as compared with the old wooden type, and claimed that while the patronage system undoubtedly was a source of much loss under the old system, it would render the development of the new navy absolutely impossible. The very highest skill was requisite to insure any efficiency in the new vessels, and to secure this he had instituted a system in which mechanics in the yards should be selected for competence alone with the single additional qualification of American citizenship.

The War Department. — The resignation of the secretary, Mr. Proctor, was placed in the hands of the President November 3 and accepted December 5. Mr. Proctor had resolved to accept the appointment as Senator for Vermont, to succeed Mr. Edmunds, who had resigned his seat.

The Post-Office Department. — The award of contracts for **subsidized mail service** was announced by the Postmaster-General November 27. Nine bids were accepted, of which but two were for the establishment of new service, namely, New York to Buenos Ayres, and Galveston to Laguayra. Four of the contracts were secured by the Pacific Mail Steamship Company and two by the New York and Cuba Mail Steamship Com-

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pany. It is not considered that such a result of the Subsidy Act fulfils the just expectations of its supporters, and the Postmaster-General attributes the difficulty in the matter to a feeling among business men that the rates of subsidy are relatively inadequate. He states, however, in his report that to accomplish the schedule of contracts agreed to by the government, some ten millions will have to be expended in the construction of new ships, and he is inclined to think that the mere chance of aid has saved some American lines from going out of business. The appropriation necessary to meet the subsidies he estimates for the next fiscal year at $561,518. Mr. Wanamaker's report expresses great satisfaction with the system of promotions for merit only which has recently been introduced in the department at Washington and which is rapidly being extended to the larger post-offices and to the railway mail service.

Department of the Interior. — The secretary is still engaged in the acquisition of Indian lands by purchase from the tribes. His report showed a total of 23,000,000 acres acquired by the present administration, and the naturalization, through taking allotments, of 27,619 Indians. The census reports the total Indian population at 250,483, exclusive of Alaskans. On January 6 the President transmitted to Congress further agreements with various tribes for sale of their reservations: with the Tonkawas, in Oklahoma, for 90,710 acres, with the Colvilles, in Washington, for 1,500,000 acres and with the Wichitas and affiliated bands in Oklahoma, for 743,610 acres. On April 15 and 19 respectively the Sisseton reservation in South Dakota and the Arrapahoe lands in Oklahoma were thrown open to settlers. The events were characterized by the usual incidents of a wild rush of thousands for eligible sites. — The pension bureau has been under investigation by a House committee for some time, especially in reference to charges of doubtful conduct in appointments by Commissioner Raum.

The Civil Service. — President Harrison, December 5, sent to every head of department a letter directing "that in your department a plan be at once devised and put in operation for keeping an efficiency record of all persons within the classified service, with a view to placing promotion wholly upon the basis of merit. It is intended to make provision for carrying into effect the stipulation of the Civil Service Law in relation to promotions in the classified service." The compulsory examination is done away with and promotions are to be determined by the record of proficiency, together with the candidate's knowledge of the bureau to which he belongs. — The failure of the Postmaster-General and the Secretary of the Treasury to heed the recommendation of Civil Service Commissioner Roosevelt that a number of employees at Baltimore be dismissed, led to an investigation of the matter by the House Committee on the Civil Service, beginning April 25. — The attempts of the Civil Service Commission to secure the enforcement of the law against soliciting **political contributions from office-holders** have been only partially successful. After long delays indictments secured in the District of Columbia (*cf.* this RECORD for June, 1890, p. 364) were passed upon judicially. On November 16 the supreme court of the District overruled a demurrer and upheld the constitutionality of the provision in question, declaring that "solicitation from any person, whether a government employee

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or not, [was] unlawful within any room or building occupied in the discharge of official duties by any employees of the United States." But in a jury trial before the criminal court, one of the defendants involved in this case was on January 30 acquitted.

Appointments to Office: December 17, Secretary of War, Stephen B. Elkins, of West Virginia; February 9, Third Assistant Secretary of State, William M. Grinnell, of New York; March 18, Solicitor General, Charles H. Aldrich, of Illinois; February 11, Minister to Ecuador, Rowland P. Mahany, of New York; March 30, Minister to Japan, Frank L. Coombs, of California; April 28, Minister to France, T. Jefferson Coolidge, of Massachusetts; and the following circuit judges, authorized by the recent act establishing the circuit court of appeals: December 16, William L. Putnam, of Maine, Nathaniel Shipman, of Connecticut, George M. Dallas, of Pennsylvania, Nathan Goff, Jr., of West Virginia, William H. Taft, of Ohio, William A. Woods, of Indiana; February 10, Walter H. Sanborn, of Minnesota; February 11, Joseph McKenna, of California.

RECIPROCITY AND THE TARIFF. — The commercial policy encouraged by the McKinley Tariff Act has been pushed with much diligence by the administration, and a considerable crop of new agreements has resulted. Most headway has been made among our American neighbors to the southward. Through negotiations carried on at Washington in November and December a comprehensive arrangement was made with the **British West Indies and British Guiana**, which was proclaimed by President Harrison as in effect February 1. The arrangement includes two schedules, one applicable to British Guiana, Trinidad, Tobago, Barbadoes, the Windward Islands and the Leeward Islands; the other to Jamaica and her dependencies. On the part of the United States the chief consideration was the free admission of sugar and coffee, in return for which the colonies agreed to admit free, or at reductions of twenty-five or fifty per cent from the present duties, a long list of agricultural and manufactured products of the United States. Jamaica's list is much shorter than that of the other colonies for the reason that Jamaica's export of sugar to the United States is relatively very much smaller. The most important article of American production affected is wheat flour, which constitutes twenty-six per cent of all our exports to the British West Indies, and on which the duties are reduced by the treaties fifty per cent for all the colonies except Jamaica and Trinidad. An agreement with **Salvador** was proclaimed January 2, with **Nicaragua** March 13, and with **Honduras** May 1. In each of these a lengthy free list was the sole feature. Negotiations with **Mexico** have been under headway, but the fact that her coffee and hides have been free of duty in the United States since 1872 has proved a considerable obstacle to a realization on her part of any especial favor received from the McKinley Act, and hence no conclusion has been reached. The House Committee on Foreign Affairs reported unanimously April 20 a resolution recommending reciprocity with Mexico upon the broadest lines. An agreement with **Costa Rica** awaits the ratification of her legislature in order to be made public. Among European countries important results were obtained first in Germany. In announcing the removal of the restriction on the importation of American pork the Ger-

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man minister intimated the readiness of his government to concede to the United States the same reductions of duties on agricultural products that were granted to Austria-Hungary in the treaty recently framed. The result was an agreement proclaimed by President Harrison February 2, by which, with special reference to the free introduction of German beet sugar into the United States, a variety of our products were given reduced rates or free admission in Germany. As to **France**, a very similar course of proceedings was followed, though less speedily, by a like result. Negotiations conducted by Minister Reid at Paris during the winter, ended in a treaty which was signed by President Carnot March 15. Sugar from France and hides and molasses from her colonies being continued on the free list in the United States, the French government agreed to admit a number of American products under the minimum schedule of the new tariff. — An attempt to renew negotiations with **Canada** on the reciprocity question in February resulted very quickly in a failure. The Canadian Finance Minister stated in his budget address on March 23 that Mr. Blaine had insisted on a basis of negotiation which meant a discrimination by Canada in favor of the United States and against all other nations, including Great Britain, and which involved practically the adoption of a tariff and excise system identical with that of the United States. These conditions the Canadian government declined to consider. On January 7 the **application of the retaliatory clause** of the McKinley Act was begun by a preliminary announcement from President Harrison to Austria-Hungary, Colombia, Hayti, Nicaragua, Honduras, Spain (for the Philippine Islands) and Venezuela, declaring that, in view of the free admission of the articles named in section 3 of the tariff, he deemed their tariffs on the agricultural and other products of the United States to be reciprocally unequal and unreasonable, and that he would issue his proclamation March 15 next, suspending the provisions of the tariff law relating to the free introduction into the United States of sugars, molasses, coffee, tea and hides, the product of or exported from such countries, and that on and after that date the duties fixed in section 3 would be imposed on those articles. Before the date announced, an understanding of some sort was reached with all the governments mentioned save Venezuela, Hayti and Colombia, and accordingly the proclamation issued on March 15 applied to only those three. — In a decision announced February 29, the Supreme Court upheld the **constitutionality of the McKinley Act** in respect to all the points urged against it. As to the omission of a section in the enrolled bill, the court declined to go back of the signatures of the presiding officers of the two houses, together with that of the President, in determining the authenticity of a law. The House journal could furnish no test, for its object was merely publicity of the proceedings. As to the plea that the reciprocity clause delegated legislative power to the President, the court held that it was not legislative power, but the determination of the time when certain legislation should go into effect, that was given to the President. As to the unconstitutionality of the sugar bounties, the court declined to discuss the point directly, holding that the connection between this clause and the rest of the act was not close enough to make the validity of the latter depend upon the validity of the former.

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CONGRESS. — The first session of the fifty-second Congress began December 7. **The organization of the House** was preceded by a lively contest in the huge Democratic majority over the speakership, in which the general policy of the party and the choice of a Presidential candidate for the forthcoming election were involved. The result was the election to the speakership of Mr. Crisp of Georgia, who, as against Mills of Texas, was regarded as the candidate of the faction which preferred the currency to the tariff as the dominant issue in the electoral campaign, and some one besides Mr. Cleveland as the nominee for the Presidency. Mr. Crisp was formally chosen by the House December 8, and on the 23d he announced **the committees,** with the following gentlemen as chairmen of the most important: Springer of Illinois, Ways and Means; Holman of Indiana, Appropriations; Bland of Missouri, Coinage, Weights and Measures; Blount of Georgia, Foreign Affairs; Mills of Texas, Interstate and Foreign Commerce (afterwards resigned and was elected to the Senate). In the changes in the Senate committees the most important feature was the choice of Mr. Hoar of Massachusetts as chairman of the Judiciary Committee, in the place of Mr. Edmunds of Vermont. — **President Harrison's message** contained no points that attracted special attention, beyond the references to the Chilian matter. He announced that he had remonstrated with the Chinese government against the grounds on which it had declined to receive ex-Senator Blair as United States minister, and with Russia against the harsh measures she was enforcing against the Hebrews. The work of the Nicaragua Canal Company was described at some length, and government financial aid in carrying through its project was recommended. In home affairs, Mr. Harrison found many facts to warrant the conclusion that the tariff policy of the last Congress had proved beneficial to the country. So far from prices having been burdensome to the consumer, he affirmed that there had rarely if ever been a time when the proceeds of a day's labor would purchase so large an amount of the necessities of life among the masses. Foreign commerce, moreover, had reached the largest total in our history, and of our imports, the percentage free of duty was higher than ever before. Under such circumstances he deprecated any agitation for radical changes in the tariff. In respect to the currency, too, he reported that the gloomy predictions of partisans had not been fulfilled, and he expressed the hope that the existing laws would be given a full trial. His well-known hostility to free coinage of silver was again expounded at more or less length. The President concluded his message, as he had that of a year previous, with an appeal for reform in federal election laws. The text for the discussion was the recent action of Michigan in substituting the district for the general plan in the choice of Presidential electors, and in "gerrymandering" the state for partisan advantage. Mr. Harrison intimated a conviction that the practice of the "gerrymander" was not only unconstitutional, but that it stood in the same line with fraud and suppression of votes in elections as a most threatening danger to our national existence; and he suggested the possibility of a non-partisan commission, selected by the Supreme Court, to consider the evils connected with our election system, and methods and plans for their removal or mitigation. — **The rules of the House** were adopted February 4. The majority

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rejected the innovations made under Speaker Reed's influence by the last House and adopted for the restriction of filibustering the following rule: "It shall always be in order to call up for consideration a report from the Committee on Rules, and, pending the consideration, the Speaker may entertain one motion that the House adjourn; but, after the result is announced, he shall not entertain any other dilatory motion until the said report shall have been fully disposed of." A provision was passed also permitting "riders" to appropriation bills, provided they shall be germane and shall reduce expenditures, and another old rule was revived which requires that appropriation bills shall be reported within eighty days after the announcement of the committees in a long session, and within forty days after the commencement of a short session. — No legislation of especial importance has been completed up to the close of this RECORD. Interest was first generally attracted to **the silver question**. A number of free-coinage bills were introduced in either house, but only that reported by Mr. Bland from the House Committee on Coinage came up for action. The bill provided for the free coinage of both gold and silver on presentation in amounts of $100 and upwards, or if the owner preferred, for the issuance of legal tender "coin notes" in return for the bullion, the latter to be coined up only as needed to redeem the notes. The special gold and silver certificates already in circulation were to be discontinued. It was further provided that whenever France should resume free coinage of silver at the ratio of $15\frac{1}{2} : 1$, that should become the ratio of the United States, and the old $412\frac{1}{2}$ grain dollars should be recoined into dollars of 400 grains. This bill, through special action of the Committee on Rules, came up for debate March 22, and when after four days of discussion a vote was sought, a motion to table showed an evenly divided house, with the Speaker voting, and a little filibustering then rendered the passage of the bill impossible. An attempt to induce the Committee on Rules to bring up the bill again and force it through under the closure proved futile, through the impossibility of securing a majority of the Democratic members to favor the plan. — **The tariff policy** adopted by the majority in the House was that of attacking seriatim the most vulnerable provisions of the McKinley Act. Accordingly there were reported from the Ways and Means Committee in February three distinct bills on this line. The first put raw wool on the free list and made substantial reductions in the rates on woollen manufactures; the second removed the duties on bagging, gunny-cloth and all similar material for covering cotton, as well as those on iron cotton ties; and the third put binding-twine on the free list. April 9 a bill was reported to reduce the duty on tin plate and to put tin on the free list. The free-wool bill passed the House April 7; the cotton-bagging bill two days later — both by great majorities. **Other important measures** that have come before Congress are: The Paddock Pure-Food Bill, prohibiting the introduction into any state or territory, from any other state or territory or foreign country, of any article of food or drugs that is adulterated or misbranded, — passed by the Senate March 9; the Chinese Exclusion Bill, absolutely prohibiting all Chinese (except diplomatic and consular officers and servants), to enter the United States, and requiring every Chinaman now in the country to secure a certificate of residence, with photograph and full description of

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himself, and to pay for this a license fee of three dollars, — passed by the House April 4 but rejected by the Senate for a much less rigorous substitute April 26; a bill to exclude political influence in the employment of laborers by the United States, authorizing the registration of qualified applicants for position and their appointment in order of registration, — agreed to by the House Committee on Reform in the Civil Service March 14.

SUPREME COURT DECISIONS. — February 1, *Ex parte* Rapier and Dupre: Held, that the act of Congress excluding lottery matter from the mails is within the constitutional power to establish post-offices and post-roads. February 29, Budd *vs.* New York and New York *vs.* Walsh and others: Held, that fixing by state act maximum charges for handling grain by elevators in any city of over 130,000 inhabitants, is not taking private property without due process of law, but is a valid exercise of the police power. United States *vs.* Texas: Held, that the constitutional assignment to the Supreme Court of jurisdiction in all cases in which a state is a party, authorizes the court to entertain an original suit by the United States against a state to determine a controversy as to boundaries between the state and a territory. United States *vs.* Ballin *et al.*: Held, that the rule of the House of Representatives of the fifty-first Congress for determining the presence of a quorum by a count of the members present was reasonable and valid under the constitution, and that the so-called Dingley Worsted Act of May 9, 1890, was therefore constitutional. Schwab *vs.* Sheriff: Held, that the absence of the accused from the court-room when the Illinois supreme court, after upholding the sentence of the lower court, fixed a new date for their execution, involved no denial of due process of law. Holy Trinity Church *vs.* United States: Held, that an arrangement by which a clergyman came from England to fill a pulpit in a New York church was not a violation of the Alien Contract-Labor Law.

II. Affairs in the States.

ELECTIONS AND CONSTITUTIONAL CHANGES. — The voting on November 3 for **state officers** in a number of states attracted especial attention in view of the bearing of the results on the coming presidential campaign, and also as showing in some measure whether the great Democratic triumph of the previous year was likely to be permanent. In Massachusetts the Democrats re-elected Governor Russell, and in Iowa Governor Boies; while in New York their new candidate, Mr. Flower, achieved a great triumph. On the other hand the Republicans carried Ohio for Mr. McKinley, displacing thus a Democratic administration, and in Pennsylvania minor state officers secured large Republican majorities. Rhode Island voted for state officers April 7, and a very lively campaign resulted in a victory for the Republicans by a narrow margin in the largest vote ever cast in the state. — **Constitutional amendments** were passed upon in Ohio, Maryland and Massachusetts. The last-named ratified a proposition abolishing the payment of a poll-tax as a prerequisite of voting, and also a provision fixing the number of members to constitute a quorum in the General Court. In Maryland, of the six amendments submitted to the voters, one was rejected,

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namely, that authorizing an income tax; the other five were adopted. The chief provisions were those giving power to the governor to veto single items in appropriation bills; restricting the exemption of corporations from taxation; fixing the term of county commissioners; authorizing the taxation of mortgages where the property is situated; and authorizing the sale of the state's interest in internal improvements and in banks. In Ohio an amendment increasing the power of the legislature over taxation was rejected. — **The unsettled elections** of 1890 in Connecticut and Nebraska have made some progress toward settlement. In Connecticut the state supreme court decided that the hold-over governor, Bulkeley, was the lawful governor until some way not yet tried should be devised for determining the rights of the candidates in the elections. The Nebraska case was carried to the Supreme Court of the United States on the question of the Democratic contestant's citizenship. This gentleman, Mr. Boyd, though once duly installed in office, had been ousted by his opponent, Thayer, through a decision of the Nebraska court against Boyd's citizenship. This decision was reversed by the United States court February 1, and a week later Boyd resumed his functions as governor.

THE LOTTERY QUESTION. — The struggle on this matter which for some time has been the central point of Louisiana state politics, and which has involved national interest, was brought to a crisis during the winter. The occasion of the struggle was the lottery company's well devised and diligently promoted scheme for securing a renewal of its charter at its expiration with the year 1893. By the state constitution all lotteries are prohibited after 1894. Through the offer of an enormous contribution to the state treasury ($1,250,000 annually for twenty-five years) the company secured from the legislature a proposition to amend the constitution so as to permit the renewal of its charter. This proposition was passed against the strong objections of the governor, who vetoed the bill, but whose action was rendered useless by a resolution of the two houses that his sanction was unnecessary to a proposition for amendment, this resolution being sustained by the supreme court of the state. The ratification of the amendment was to come before the people in the elections of April, 1892. Feeling between the friends and adversaries of the lottery ran very high as the preparations for the campaign began, and the Democratic state convention in December split into two exceedingly hostile factions, each of which put a ticket in the field. The prospect for the success of the lottery was good in the state, though sentiment throughout the country was very strong against it, when a decision of the Supreme Court of the United States put a new face on the situation. Through the vigorous enforcement of the Anti-Lottery Act of the fifty-first Congress (*cf.* RECORD for December, 1890, p. 728) the business of the Louisiana company throughout the country had been seriously hampered and curtailed. Cases to test the constitutionality of the law had been brought up to the Supreme Court and on February 1 a decision was rendered sustaining the act. Two days later Mr. John A. Morris, the head of the company at New Orleans, issued an address to the people of Louisiana, in which he declared that he and his associates, realizing that they had been incorrect in their view of public sentiment in respect to the new charter, and desiring not to be a source of agitation and discontent in the state, would not

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accept or qualify under the amendment if it were passed. The federal law, having been declared constitutional, he said would be faithfully obeyed. Though there was a suspicion that this action was a ruse, convincing evidences of its sincerity were soon made manifest. The factions of the Democratic party failed to heal their differences, but the voting in April resulted in sweeping victory for the anti-lottery ticket. — In Kentucky, where the recently adopted constitution forbids lotteries and gift enterprises, a Frankfort company which has done a large business has continued its operations without reference to the new law. The popular sentiment aroused by the proceedings in Louisiana led to action by the Kentucky authorities against this company, but without definite result as yet.

VARIOUS LEGISLATION. — The **Iowa** legislature has passed a ballot-reform act on the so-called Australian plan, making the number of states that have introduced the reform thirty-four. The struggle on the liquor question which has effected such great political transformations in Iowa during the last two years, passed through another phase in February, when the high-license bill introduced by the Democrats failed in the Senate through lack of a single vote to make a majority of the body. The adversaries of prohibition promptly renewed the fight by the introduction of a local-option bill. — The **Virginia** legislature in February ratified a final settlement of the state debt with the bondholders. To provide for $28,000,000 of outstanding debt $19,000,000 of bonds are to be issued, to run 100 years and to bear two per cent interest for the first ten years and three per cent thereafter. Incidentally to this settlement a bill was passed to retire the last of the tax-receivable coupon bonds which have been somewhat famous in the state's financial history. — The act of the last **Michigan** legislature assessing mortgages for taxation as part of the real estate concerned and putting the tax on the mortgagee, was upheld by the state supreme court, March 19; but as the court also held that there was nothing to prevent an agreement between mortgagor and mortgagee as to who shall pay the tax, a way was left open to evade the main purpose of the law by inserting in the mortgage a clause making the mortgagor responsible. The purpose of the law was of course to force the mortgagees, especially non-residents, to pay tax on their investments. — The supreme court of **Texas** has held unconstitutional the law prohibiting aliens to own land in the state. The ground was not, however, the principle of the act, but the failure of the title to conform to the requirement of the state constitution that the subject of every bill shall be expressed in its title.

THE TRUSTS. — The sentiment against combinations of this character, which has found copious expression through legal procedure and otherwise, has at last caused the **dissolution of the Standard Oil Trust**, the greatest and most typical of these organizations. On March 1 the supreme court of Ohio handed down a decision in a long-pending case instituted by the attorney-general against the Standard Oil Company of that state. The court held that even though this company did not enter the trust as a corporation, the same legal condition was produced by the action of the individual stockholders in transferring to the trust a majority of the stock. By permitting its stock thus to be monopolized the company became as fully responsible

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as if the situation had been produced by its direct corporate action; and as such a disposition of its stock was illegal, the company's corporate rights were forfeited. This decision, foreshadowing the overthrow of the trust agreement in the other states in which standard companies existed, was followed by the announcement that the trust would be dissolved in accordance with the provisions of the trust agreement. Accordingly on March 21 a meeting of the trust certificate-holders was held and the necessary formal action was taken. The same trustees who had conducted the business under the trust agreement were designated to wind up the affairs of the concern, and this was to be effected simply by dividing *pro rata* among the certificate-holders the stock of each of the corporations. As the trust certificates had become very much concentrated in the hands of the trustees, the practical result was that, without any specific agreement, all the various corporations fell under the control of the group of individuals who had controlled them under the trust. There were some thirty corporations in the trust, in five different states, and the project of dissolution involved the greatest possible consolidation of the companies in each state, but no step was taken indicating a purpose to effect a general consolidation in one great corporation, as was done by the Sugar Trust and others. — The first important attempt to enforce the federal law against trusts was made in the United States district court at Boston, March 2, by the **indictment of the officers of the Whiskey Trust** (Distilling and Cattle-Feeding Company). The charge was that the accused, by means of the control they exercised over the great majority of the distilleries in the United States, had unjustly and oppressively monopolized the manufacture and sale of distilled high wines and increased the usual rates and prices, and by preventing and counteracting the effect of free competition on the price of such commodities, had unlawfully exacted great sums of money from specified persons. The legal proceedings have as yet made but little progress. — A combination which amounted practically to a coal trust was effected in February by the principal railway lines engaged in the transportation of anthracite coal from the Pennsylvania mining regions to the seaboard. Both Pennsylvania and New Jersey have laws prohibiting or restricting the combination of competing railways, but the companies seem to have successfully evaded the provisions. An investigation of the affair was held in March at Harrisburg under the direction of the state attorney-general, but without important effect as yet. A bill to legalize the transaction passed in the legislature of New Jersey, but was vetoed by Governor Abbett April 5.

FARMERS' ORGANIZATIONS. — The National Farmers' Congress, an assembly of delegates appointed by the governors of Western and Southern States, held its eleventh annual session at Sedalia, Missouri, November 11. Resolutions were adopted recommending state control of live-stock exchanges, and national laws requiring the stamping of artificial hog products and prohibiting gambling in farm products. — The chief centre of attention, however, for the Western agricultural interests was the annual meeting of the **National Farmers' Alliance** at Indianapolis, November 17. At the same time and place was held the annual meeting of the Farmers' Mutual Benefit Association. It was expected and desired by many that one result of

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the conventions would be the formal amalgamation of the two societies, but the latter, being much the smaller, found so much hostility to the project among its members that the scheme failed. A good understanding was maintained, however, among the leaders, and many of the influential members of the lesser society became members of the greater also. The attitude of the Alliance toward the third-party movement was carefully watched, and a committee of the People's Party was in attendance at Indianapolis; but the Alliance preserved its old policy of avoiding definite commitment to any purely political schemes or organizations. In connection with the platform of the Alliance, a strong and concerted effort was made to throw out the sub-treasury plank, but the attempt failed, even though threats of secession were freely made by the enemies of the proposition. The platform as finally adopted was identical with that formulated at Ocala a year previous, except two unimportant verbal changes. Notwithstanding charges of various offences against the interests of the order, the incumbents of the chief offices were re-elected. There was manifested during the session considerable hostility to the movements of the National Union Company, which is absorbing all the Alliance commercial enterprises.

LABOR ORGANIZATIONS. — The annual conventions of the two leading orders gave evidence of the continued decline of the Knights and of the relative increase of the Confederation. The Knights of Labor held their convention at Toledo, Ohio, November 11, and in addition to the ordinary routine business, adopted by an almost unanimous vote a series of resolutions looking to harmony with the Federation. They proposed a mutual recognition of working cards by unions affiliated with the two organizations, the mutual recognition and endorsement of labels, and the exclusion from each of members suspended or expelled from the other. It does not appear that these propositions were even considered by the Confederation of Labor. This latter organization held its annual convention at Birmingham, Alabama, December 14. The assembly was said to be the largest in the history of the order, and President Gompers claimed that the delegates represented 750,000 organized laborers. Among other business the convention put itself on record in favor of a constitutional amendment securing woman suffrage, and in opposition to any participation of trades unions in politics, though a resolution to prohibit office-holders from acting as " organizers " was voted down.

THE THIRD-PARTY MOVEMENT. — As a result of various influences and proceedings that have been chronicled in the last two instalments of this RECORD there assembled at St. Louis, February 22, a **National Industrial Conference**, mainly under the auspices of the Farmers' Alliance and the Knights of Labor. A large number of organizations sent delegates and the most heterogeneous principles were represented. The main object seemed to be, however, the search for some ground upon which agricultural and mechanical labor could unite for the promotion of their common interests. It was thought that with a sufficiently comprehensive platform all the various elements that hang upon the borders of the two great political parties could be combined for effective action. Though definite organization of a third party was not within the scope of the conference's purpose, it was understood that if a satisfactory platform could be devised, the further

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organization would soon follow. Proceedings were of a rather confusing character, but the dominance of the Farmers' Alliance influence was clearly recognized. President Polk of that body was chosen president of the convention. The platform, as finally adopted, exhibits best the ideas at work in the conference. It opens by designating the present assembly as "the first great labor conference of the United States and of the world, representing all divisions of urban and rural industry." "The conditions which surround us" are set forth as the justification of the co-operation: The nation is on the verge of moral, political and material ruin; the press is subsidized, public opinion silenced, homes covered with mortgages and labor impoverished and denied the right of organizing for self-protection. Governmental injustice is breeding the two great classes, paupers and millionnaires, and the national power to create money is perverted to enslave industry. "A vast conspiracy against mankind has been organized on two continents and is taking possession of the world. If not met and overthrown at once, it forebodes terrible social convulsions, the destruction of civilization or the establishment of an absolute despotism." Under such circumstances "the intelligent working people and producers of the United States" feel called upon to come together to regulate matters. And since neither of the old political parties is disposed to do anything to bring about reform, a new political organization is necessary for the realization of these ends: The union of the labor forces of the United States; the enjoyment of wealth by him who creates it; a currency on the sub-treasury plan "or some better system"; free coinage of silver; a circulating medium of not less than $50 *per capita; etc., etc.* An attempt to inject a woman-suffrage and a prohibition plank into the platform failed, but these demands were endorsed by separate resolutions. After the formal adjournment of the convention, the delegates, in a mass-meeting, appointed a committee to confer with the national committee of the People's Party as to the time and place of a national convention to nominate a Presidential candidate. As a result of this conference a call was issued for such a convention to meet at Omaha, Nebraska, July 14, 1892. — Despite the elaborate preparations made for the development of the People's Party there is a widespread belief that the farmers' movement in the West has spent its force. The discontent on which it was based has been very much lessened by the coincidence of great crops in the United States and scarcity in Europe. Prices of cereals have been kept at a good figure and the farmers have therefore prospered. This prosperity, while apparently not undermining the Alliance in its non-political aspects, seems to be exercising considerable influence against the sub-treasury scheme and against the third-party idea. The third-party vote for governor in Iowa and Ohio in November was small, 11,918 in a total of 420,214 in the former, and 23,472 in a total of 795,629 in the latter. But it is of course in the local and congressional elections that the strength of the movement must be expected to be the greatest.

NECROLOGY. — January 3, Montgomery C. Meigs, quartermaster-general of the army throughout the Civil War; January 22, Joseph P. Bradley, associate justice of the Supreme Court of the United States; February 10, John Jay Knox, for seventeen years (1867–1884) Controller of the Currency in the Treasury Department.

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II. FOREIGN NATIONS.

INTERNATIONAL RELATIONS. — The dominant feature in European diplomacy has been the conclusion of **commercial treaties** among the leading powers. As a central point in the general system stood the agreements reached with one another by the powers of the Triple Alliance, Germany, Austria-Hungary and Italy, which were duly ratified by all these legislatures during the winter. The treaties went into effect February 1, and will run till the end of 1903. Though the treaties themselves contained no reference to any purely political purpose, their effect in adding a new and powerful bond to the political alliance was conspicuously urged by the ministers in pressing for their ratification. The inclusion of Belgium and Switzerland in the system of treaties was regarded as a signal triumph over French influence. As between Switzerland and Italy very serious obstacles had to be overcome; the treaty was not signed until April 19, and is yet to be ratified. At the beginning of April it was reported that Russia had made overtures to Germany looking to a commercial understanding. This was considered as evidence that the commercial alliance between the central powers was exerting more influence on Russia's position than the military alliance. Sceptical Germans, however, regard Russia's movement as merely designed to cultivate favor in Germany with a view to floating a new loan there. — Friction between **France and Bulgaria** was occasioned in December by the expulsion of a French press correspondent from the latter country. M. Chadourne, the Frenchman in question, had written much that reflected severely on the Bulgarian government, and not heeding several warnings, he was summarily seized and carried beyond the border. The French *chargé d'affaires* immediately demanded his restoration, and not obtaining it, broke diplomatic relations. An animated exchange of notes ensued, in which the Porte, as suzerain of Bulgaria, took part, and in reference to which the European powers manifested much interest, the Triple Alliance and England supporting Bulgaria, Russia sympathizing with France. On January 21 a settlement of the affair was reached, Bulgaria apologizing for not having notified the French agent of the intended expulsion; but the decree of expulsion was not withdrawn. — **The Pamir boundaries question** between Great Britain and Russia was settled in February by an official expression of regret by the latter for the expulsion of the English officers from the territory in dispute. — **The General Act of the Brussels Anti-Slavery Conference** at last received the ratification of all the powers, though in a more or less qualified form, and was proclaimed in force April 2. France ratified under qualifications as to the right of search, and the United States Senate incorporated in its ratification a clause asserting that the United States, "not having in African territory any possessions or protectorates," disclaims "any intention in adhering to this treaty to declare any interest in such possessions and protectorates established by other powers, or any approval of the wisdom, expediency or lawfulness thereof, and does not join in any expressions in the treaty which might be construed as such a declaration."

THE ANARCHISTS. — The new year has from the outset been characterized by widespread manifestations of anarchistic activity. **Spain** more

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than any other country has experienced the terror of the propaganda. An outbreak of violence at Xeres in January was followed by the execution of four of the offenders February 10. This was the signal for widespread agitation, with the accompaniment of dynamite explosions in many places and open conflicts with the police and military in others. The disorders continued through March and April and showed evidences of an organized propaganda among the laboring and discontented classes. On April 4 two men were arrested with bombs in their possession at the entrance to the Cortes building in Madrid, and the police announced the discovery of a plot to destroy all the public buildings. Later in the month an arrested anarchist confessed that a plan had been matured for killing the boy King of Spain. In the larger cities the police have made some headway in breaking up the criminal bands, but lawless manifestations in the less populous regions still continue. In **France** the operations of the anarchists have been especially conspicuous at the capital. Paris has been terrorized since the middle of March by their work. Thefts of dynamite from public stores had put the police in activity before that, but the work of destruction began on March 11, when a bomb was exploded in the residence of a magistrate who had officiated at the trial of anarchists in 1891. Four days later great damage was inflicted on the Lobau barracks, occupied by troops, and on March 27 the residence of a prosecutor in anarchist trials was completely wrecked. A bill was passed by the Chamber of Deputies on the next day making death the penalty for destruction of property by explosives, except in case of informers. The police made many arrests, including the most conspicuous of the criminals, Ravachol, on March 30. On April 25 the restaurant in which Ravachol was arrested was destroyed by a bomb. The effect was manifest in his trial on the following day; for the jury, with its verdict of guilty, found "extenuating circumstances," which excluded the penalty of death. Isolated cases of dynamite explosions have occurred in Italy and Belgium, and even in England a society of anarchists engaged in the manufacture of bombs was discovered by the police at Walsall. — It was feared that some special manifestations would be made by the anarchists in connection with the general eight-hour agitation on May 1, and thorough precautions were taken by the authorities throughout Europe. The day passed, however, in quiet, though meetings and processions of workingmen were held everywhere.

GREAT BRITAIN AND IRELAND. — The ministerial changes made necessary by Mr. Balfour's promotion were effected by the appointment of Mr. W. L. Jackson to be Chief Secretary to the Lord Lieutenant of Ireland, and Sir John Gorst to succeed Mr. Jackson as Financial Secretary to the Treasury. — **Conservative party policy**, as outlined by the conference at Birmingham, November 24–25, showed the same tendency as that of the Gladstonian Liberals at Newcastle (*cf.* last RECORD) to bid for the labor vote, both agricultural and urban. Most significant among the acts of the conference, however, was the rejection of a resolution indorsing the proposed bill for the extension of local government in Ireland. A strong feeling was manifested that enough had been done in the way of Irish legislation. — The choice of a **new Liberal-Unionist leader** in the House of Commons was made necessary by the elevation of Lord Hartington to the peerage at the

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death of his father, the Duke of Devonshire. On February 8 Mr. Joseph Chamberlain was formally elected to the position. — **Parliament** assembled February 9. The Queen's speech was read by commission. It announced a series of measures including a bill for local government for Ireland, with possibly some new features for Great Britain, a project for increasing the number of small agricultural holdings in Great Britain, and a bill for improving the educational system in Ireland. The debate on the address was only notable in revealing more clearly the divergence of the two Irish factions. The Parnellites moved an amendment favoring the release of the Fenians still in imprisonment for treason-felony. The anti-Parnellite amendment affirmed that new evidence of the inability of the British Parliament to legislate for Ireland was to be found in the failure already of the Land Purchase Act of last year. Both amendments were of course lost, but the government was obliged to admit in debate that the applications for purchase under the last act had been for only £130,000, and not a single application had as yet been granted. The promised **Local Government Bill for Ireland** was introduced by Mr. Balfour February 18. The central feature of the measure is the establishment of elected councils in the counties and baronies to exercise the administrative functions hitherto chiefly in the hands of appointed grand juries. Judicial functions are still left to the grand juries. The electors for the new councils are to be the same as for Parliament, with the addition of women and peers. For the protection of minorities two important provisions appear: (1) A system of cumulative voting which will insure minority representation; (2) the authorization of the judges of assize, on petition of twenty cesspayers, to remove the councillors of either county or barony, when found guilty of persistent disobedience of law, corruption or "oppression" of the minority, — the vacancies to be filled by the Lord Lieutenant. To prevent recklessness and extravagance, the control of capital and permanent, as distinct from current, expenditures is given to a committee nominated partly by the council and partly by the grand jury and sheriff of the county. The control of the police is left exactly as at present. Mr. Balfour's presentation of the bill was attended by much jeering from the opposition, who held that the safeguards introduced practically nullified all the concessions to popular government. Nor were the Conservatives apparently very enthusiastic in support of the measure. The second of the government's leading measures, **the Small Agricultural Holdings Bill**, was introduced by Mr. Chaplin February 22. Its object is to augment the class of small cultivating proprietors — the yeomen of English history. The process is similar to that familiar in Ireland. Local authorities are empowered to borrow money, from the Treasury or elsewhere, and acquire land, which is to be sold in small parcels on easy terms — one-fourth down, one-half by instalments and the remainder to be left under condition of a perpetual rent charge. The measure was seriously antagonized on but a single point, namely, the fact that the local authorities were not empowered to compel a landlord to sell to them for their purposes. On the same day Mr. Jackson introduced the Irish Education Bill, which is designed to compel the attendance of children between six and fourteen years, and to abolish fees in places where they do not exceed sixpence yearly per child. A rather

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important measure relating to India was read a second time March 28. It provides for an extension of the powers and representative character of the legislative councils, which are practically the only channels through which native influence can make itself felt in the Indian administration. The bill was designed to open a way for the slow approach to full representative institutions, though the government distinctly announced that in its judgment the time had not yet come when such institutions could be conceded. — **The budget** was presented in the House of Commons by Mr. Goschen April 11. It showed a surplus of £1,067,000, due mainly to economy in expenditures. The prospects for the coming year did not warrant him in proposing any reduction of taxation. — Much attention was attracted by the **elections for the London County Council**, held March 5. There has been for several years a growing demand for the abolition of some of the features of London government which date back almost to the middle ages, and which have stimulated propositions for reform of a very socialistic character. The programme of the Progressives looks to the taxation of ground values, and other measures designed to favor the householders at the expense of the great landlords of London, as well as to municipal control of the police, and of water, gas and other necessities of urban life. The elections resulted in a sweeping victory for the Progressives, the new council consisting of 84 of their party to 34 Conservatives. The majority includes a number of conspicuous labor agitators and avowed socialists. — A peculiar **strike of coal miners** occurred during the week beginning March 12. Upon the notice that a reduction of wages would be necessary soon, the Miners' Federation resolved to avoid the necessity by a two weeks' "holiday," in order to clear off the stock of coal on hand and keep up prices. Accordingly on the day set practically all the miners in England ceased work, the confederation and other organizations controlling some 400,000 men. At the end of a week the leaders announced that their end was accomplished and gave the order to resume work. The inconvenience to all branches of industry was severely felt, and there was much debate as to who had really benefited by the "holiday." — Except on the occasion of the elections in November and December **the state of Ireland** has been that of general quiet. The contest for Mr. Parnell's seat at Cork, which was in progress at the close of the last RECORD, was decided November 6, in favor of the McCarthyite candidate by a plurality of 1512 over Redmond, the Parnellite leader. The latter, however, triumphed over Michael Davitt at Waterford, December 16, by a majority of 546. Both these contests were characterized by the usual disorderly incidents, and all the leaders, the McCarthyites especially, received physical injuries. — Died: December 21, the Duke of Devonshire; January 14, the Duke of Clarence and Avondale, eldest son of the Prince of Wales; same date, Cardinal Manning.

THE BRITISH COLONIES. — The most striking incidents in Canada during the period under review have been those connected with the **fall of the Quebec cabinet.** In course of the investigations which revealed the corruption in the Dominion Department of Public Works mentioned in the last RECORD, discoveries were made which seemed to implicate members of the Quebec provincial government in doubtful railway transactions. An

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investigation instituted by the lieutenant-governor of Quebec and conducted by three judges resulted in a report which was followed by the summary dismissal of Premier Mercier and his cabinet and the formation of a new ministry under C. B. de Boucherville. As Mercier was a Liberal and Lieutenant-Governor Angers a Conservative, the former protested that he was the victim of political persecution and insisted on carrying his case before the legislature, where he had a great majority. But the government dissolved the parliament, appealed to the people and in the elections of March 7 gained a decisive victory. Mercier himself was elected, but the revelations had thrown grave doubts on his integrity, and as his political power was obviously gone, he resigned his seat two days after the election. Criminal proceedings have since been instituted against him. — **The Dominion Parliament** assembled at Ottawa February 25. The speech from the throne announced an understanding with the United States in reference to fixing the Alaska boundary line, and to reciprocity of services in cases of wreck and salvage. The budget, presented by Minister Foster March 22, showed a surplus of $2,235,000. — **The friction between Canada and Newfoundland**, caused originally by the interference of the former in a reciprocity treaty between the latter and the United States, has resulted during the winter and spring in a series of retaliatory acts by the two colonies. Although the Newfoundland Bait Act was declared unconstitutional by the British government in November, the colony not only disregarded this opinion, but extended the prohibition of the act to include the frozen herring in which Canadian vessels have been accustomed to carry on a large trade during the winter. The Dominion government thereupon put in force, December 8, the duties on Newfoundland fish and fish products, which had hitherto been allowed to enter Canada free. This called into operation a law of Newfoundland, passed some time ago, which enacted that if any country laid duties on Newfoundland fish, the food products of that country should pay import duties double those paid on similar products of the United States. This practically gives to the United States the discrimination in duties which was the cause of Canada's objection to the treaty in the first place. A proposition for a *modus vivendi* with Canada was defeated by the Newfoundland government early in April, and the premier announced his firm resolution to refuse bait to Canadians until the reciprocity convention with the United States was approved by the British government. — The act of the legislature of Manitoba abolishing separate schools for Catholics in that province was declared unconstitutional by the supreme court of the Dominion about the first of November. As the sentiment of the provincial authorities is very strongly in favor of the law, the case has been carried up to the Judicial Committee of the Privy Council at London. — The legislative sessions in the various **Australian colonies** have revealed no especial interest in the plan of Australasian federation. In both Victoria and New South Wales consideration of the proposition was laid over by the government, and in the latter colony the retirement of Sir Henry Parkes from leadership of the opposition left both parties under the direction of men out of sympathy with the scheme. The lesser colonies agree that nothing can be done until New South Wales takes the lead. Financial questions have occupied most attention in each of

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these colonies, and propositions looking to the abolition of plural voting have been forced into prominence by the strength of the "labor" vote. New South Wales has adopted for the first time a tariff with protective features. — In **India** the continuous decline in the value of silver is beginning to excite serious concern. Both the business community and the administration are feeling its effects keenly. The burden of the government debt has been increased some fifty per cent by the movement, and the effect on the salaries of English officials, who spend their money in England, is discouraging. The failure of the free-coinage bill in the United States Congress in March caused a violent drop in the value of the rupee. There is much discussion of the situation, but no one has any remedy to propose that promises to be successful.

GERMANY. — The Reichstag was in session with slight intermissions from November 17 to March 31. The first important action was the **ratification of the commercial treaties** with Austria-Hungary, Belgium and Italy, December 18. The treaty with Switzerland was ratified January 27. The opposition to these treaties was weak, and came almost altogether from the Conservatives, who, as representing the great agricultural interest, clung to high duties on cereals. The vote on the treaty with Austria-Hungary stood 243 to 48. Chancellor von Caprivi was considered to have shown great ability both in the negotiations and in the parliamentary proceedings, and he received from the Emperor the title of count. — With the opening of the Prussian Landtag, January 14, political interest soon became centred in **the Primary Education Bill**, which was a feature of the government's programme. The provisions of the bill which attracted most attention were those relating to religion in the schools. The salient points in these provisions were: that sectarian considerations should prevail in the organization of the schools, and that as a rule every child should be taught by a teacher of his own sect; that all religious instruction should be according to the doctrines of the sect to which the children belonged, and that every child of a sect recognized by the state should be assured such instruction from a teacher of his own sect; that the several sects should supervise the religious instruction in the schools; and that a new sectarian school *may* be established for thirty, and *must* be established for sixty children of a sect different from that of the existing local school. The insistence on religious instruction for every child was understood to be an outcome of the Emperor's personal resolution to crush out atheism, and the sectarian policy was the only condition on which the support of the Catholic party could be retained by the government. The measure caused trouble to the government from its first appearance. Herr Miquel, the Finance Minister, offered his resignation immediately, but the Emperor refused to accept it. The bill evoked strong opposition in the Landtag and throughout the country, only the Centrists and part of the Conservatives favoring it. A speech of the Emperor, February 24, in which he sharply rebuked the critics of the government and advised grumblers to leave the country, served only to sharpen the opposition. On March 18 signs of a **cabinet crisis** appeared. The Emperor, convinced at last that some concession must be made, ordered a modification of the bill to satisfy the National Liberals, but Count von Zedlitz-Trützschler,

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the Minister of Education, who was the framer of the project, refused to make any changes and resigned. At the same time Caprivi gave up the presidency of the Prussian ministry, while retaining the portfolio of foreign affairs. He was succeeded as president by Count von Eulenberg, who, on meeting the Landtag, March 28, announced the withdrawal of the Education Bill. The outcome of this affair left the government in a difficult position as far as **the grouping of parties** was concerned. A small part of the Conservatives opposed the Education Bill, but the most of them stood firmly for the measure in union with the Centrists. Upon the withdrawal of the bill the Centrists in the Reichstag marked their displeasure with the government by causing the rejection of a proposed credit for a new cruiser which the government desired. The Reichstag was prorogued March 31. During April there were rumors of attempts to renew the old "Cartel" agreement between Conservatives and National Liberals, but the Conservative faction split and the moderates were driven from the ranks. The bulk of the party then committed themselves to a perpetuation of the alliance with the Centre. The separation of the imperial chancellorship from the presidency of the Prussian ministry necessitated a special appropriation for the latter and it was expected that the Centre and Conservative parties would oppose the government on this point; but when the bill came up, April 28, they refrained from opposition. The Landtag then entered upon the consideration of tax reform. — A reconciliation with the Duke of Cumberland in reference to **the Guelph fund** was announced March 12. The duke wrote to the Emperor promising never to undertake any disturbance of the established order in the German Empire or any enterprise against Prussia, and asked that the treaty with reference to the property of the late King of Hanover should be put into execution. Accordingly the sequestration of the estates was removed and the income turned over to the duke. The control of the property itself remains, however, in the Prussian state. — Widespread distress among the working people, especially in the large cities, occasioned serious **riots in Berlin** February 25–27. Delegates from a meeting of laborers in behalf of the destitute unemployed, being refused audience by the burgomaster, started in company with a tumultuous crowd to appeal to the Emperor. A sharp fight with the police developed near the castle, and spread into different parts of the city. The disorders were ultimately subdued by the police, without military assistance, though there was considerable destruction of life and property. Socialistic influences do not appear to have been at work in causing the trouble, and indeed a number of leading socialists were conspicuous in their efforts to quiet the people. It was feared that the outbreak would lead to a reversal of the Emperor's policy of toleration to the socialistic party, but no signs of such action appeared. A similar disturbance on a smaller scale occurred in Dantzic on March 4.

FRANCE. — The new tariff, after long discussion in all the various parliamentary stages in Senate and Chamber of Deputies, was finally passed by the latter in the middle of January by 394 to 114. It went into effect February 1. But in order to make the transition from the old to the new system easier, a bill was passed December 26 authorizing the government to give the advantages of the minimum schedule for one year to all countries which had hitherto had commercial treaties with France. Directly

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or indirectly (*i.e.* through most-favored-nation provisions) these advantages were thus thrown open to all the important commercial nations except Rumania, Italy and the United States. With the last-named a treaty has since been concluded, as noticed above. The formal decree removing the prohibition of American pork was published December 5. — **The relations of state and church** in France have been brought into much prominence by incidents arising out of the Pantheon disorders at Rome last October (*cf.* last RECORD, p. 780). Many of the higher French clergy felt aggrieved because the government took no steps to obtain satisfaction from Italy for the ill-treatment of the pilgrims, and several of the clergy disregarded the government's order forbidding them to leave their dioceses without permission. One of these, the Archbishop of Aix, when censured by the Minister of Public Worship, replied in a letter which took such strong ground against the government's action that it was made the subject of accusation and trial before the courts. The charge was that of insulting the minister; and the trial, November 24, resulted in the conviction of the archbishop, who was fined 3000 francs and costs. Much discussion was caused by this incident, the Radicals seeking to base upon it a movement for the abolition of the concordat, the dissatisfied clergy and the Royalists using it as a text for attacks on the republican government. As the Pope and the ministry continued on good terms, the affair revealed again the cleft in the French church between those who were disposed to follow the policy announced by Cardinal Lavigerie, looking to recognition of the republic, and those who clung stoutly to the monarchic interest. That the Vatican authorities favored the former element was indicated by the orders that came from Rome in January directing the bishops to stop the political activity of the priests against the government. A little later appeared a circular, signed by the five cardinal archbishops of France and published at the end of January, which, after a somewhat lengthy list of grievances against the government's administration of the concordat, enjoined, nevertheless, respect for the laws of the country and for the representatives of the state, "frank and loyal acceptance of political institutions," and "fidelity to the duty of the voter, the performance of which by all right-minded men will assure a representation truly conforming to the will of the people, and capable of effecting in legislation the reforms required for the general peace." This document was generally regarded as a long step toward realizing the Catholic Republican party which Lavigerie had suggested. An encyclical to the French clergy was issued from the Vatican February 19 in very much the same sense. It has been stated since that the Count of Paris is curtailing the subsidies for his propaganda, and that the Royalists are much disheartened by the defection of the clergy. — Various incidents of the ecclesiastical controversy were made the basis of unsuccessful attacks on the government by the Radicals. On February 18 an occasion was found on which the Royalists joined with the Radicals and effected the **overthrow of the Freycinet ministry.** The government on that day introduced a bill dealing with associations. Among the provisions were a number in reference to religious societies. These were denied the capacity to hold property beyond the articles strictly necessary to their habitations and meetings, and were prohibited to receive legacies. Moreover, the civil

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authorities were empowered to enter any conventual establishment, and were endowed with summary jurisdiction over the Jesuits and kindred orders. When the bill was introduced a Radical deputy moved urgency for the measure, as looking to a separation of church and state. The premier declined to accept this interpretation of the bill and, when pressed, called upon the Chamber to vote on the simple question that the government be requested to continue its republican policy. Radicals and Royalists came together on this and the motion was defeated by 304 to 212. On the following day the cabinet resigned. On February 27, after MM. Rouvier, Constans, Ribot, and Bourgeois had failed, M. Loubet, a comparatively unknown senator, succeeded in forming a new cabinet. Five of the old ministry retained their portfolios, notably Freycinet in the War Department, and Ribot in the Foreign office, the most important change being the omission of M. Constans, who has made so conspicuous a record in the Ministry of the Interior. It has been asserted that the whole crisis was an artificial one, designed to get rid of M. Constans. The programme of M. Loubet was announced March 3. On the relations of state and church it was rather vague. It declared the intention of the ministry to maintain the laws based on the concordat, but to hold the clergy firmly to their obligations under it — especially that of keeping aloof from politics. The advisability of preparing the way for separation of church and state was suggested, but the principles involved in a general settlement of all the questions involved were declared to be not yet clear enough for definite action. A significant incident of the situation was the formation of a new group among the members of the Right, calling itself the Conservative Republican party. The movement is said to have the Pope's sanction.

AUSTRIA-HUNGARY. — The course of imperial politics at Vienna has been one of almost unbroken calm. An occasional ebullition of Czechish national fervor in the Reichsrath has alone relieved the monotony. The commercial treaties were adopted with very little opposition in midwinter. At Prague the radical Czechs have expressed their feelings rather to more purpose. In the Bohemian Landtag all the efforts of the government to push through the long-pending compromise on the race question proved unsuccessful, and the measures were simply postponed by the Young Czech majority, without indication of any willingness to take them up again. An attempt by the Young Czechs to express their national aspiration through elaborate celebrations of the centenary of Amos Comenius in April was met by an order of the government prohibiting any celebration whatever on the day. More or less rioting at Prague was the result. — In Hungary the Parliament was dissolved on the question of administrative reform which has been pending for some time. The central issue seems to be that of replacing the old elective system in respect to local officials by that of appointment by the government. In the election at the beginning of February the ministry, while losing a few seats, retained a formidable majority. — Both Austria and Hungary have begun discussing in earnest the possibility of great currency reforms, involving not only the resumption of specie payments, but also the substitution of a gold for the silver standard, and the gradual introduction of a gold circulation.

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ITALY. — **The financial question** has been the absorbing one throughout the legislative season. Premier Rudini in his set speech at Milan, November 9, announced a probable equilibrium in the budget, with even a small surplus possible. That this view was a little too rosy was shown by the serious discussions in April as to ways and means of meeting a deficit. The unwillingness of the War Ministry to consent to the economies demanded of it caused a reconstruction of the cabinet, in which, however, only the War and Finance Ministers were changed. Various further schemes for curtailing expenses and increasing taxation were resorted to, and it was reported that a project for relinquishing some of the particularly expensive colonial possessions in East Africa was mooted. A further evidence of the situation was the announcement, April 25, that King Humbert had expressed a willingness to accept a reduction of 1,000,000 lire ($200,000) in his civil list.

RUSSIA. — The all-absorbing topic in connection with this empire has been **the famine** and its social consequences. The suffering among the peasantry of the Volga provinces has been intense, and there is likelihood of a worse situation before the next crop can mature. On November 21 the decree was issued prohibiting the exportation of wheat, the only one of the cereals excepted from the earlier prohibition. It was at the same time officially announced that the supply of grain thus retained in the country was sufficient to carry the people through till the next crop. Public works were started in many regions to help the distressed peasantry, and the Zemstvos (local administrative bodies) have found their energies taxed to cope with the starvation and disease. — The effect of the famine on **the finances of the empire** was watched with much interest. A statement by the government in November admitted that the situation was embarrassing in a double way; first, by decreasing revenue from the peasantry, and, second, by requiring a large direct outlay by the imperial treasury to assist the local authorities; but it was claimed that the cash reserve of the treasury was adequate for the circumstances. The statement for 1891 published by Vishnegradski, Minister of Finance, at the beginning of April, showed an approximate balance of ordinary receipts and expenditures, but an actual excess of expenditures to the amount of 191 million roubles. Of this 76 millions went for famine relief and 93 millions for reduction of the public debt. To meet this deficit there was a reserve of 234 millions. For the current year the means for meeting the anticipated deficit are not visible, since the proceeds of the last loan, though not definitely known, are probably far short of what was expected. — A rumor that a commission to codify **the law of Finland** had formulated its report in three short sections, the essence of which was that the Czar was autocrat in Finland as in Russia, has caused considerable agitation among the Finnish people. No official acceptance of the codification has been announced.

SPAIN. — A reorganization of the ministry was occasioned November 21 by the withdrawal of Señor Silvela, Minister of the Interior. Canovas del Castillo retained the position as premier. — The government adopted a new tariff in December, which went into effect February 1. The system was constructed on the plan of maximum and minimum schedules, the former applying to nations not under special treaty arrangements with Spain. By

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prolonging till July 1 the existing commercial treaties, the government, however, continued the existing rates, with one or two exceptions, for all the leading nations. — The budget for 1892–93, submitted to the Cortes February 6, promised a deficit of only 1,500,000 pesetas ($300,000). This was regarded as rather optimistic, but the government announced a firm resolution to economize, and looked to an increase in revenue from a new sugar tax. Despite its efforts in this direction, the deficit, at the conclusion of the budget committee's labors, had risen to 20,000,000 pesetas.

MINOR EUROPEAN STATES. — The revision of the Belgian constitution has been finally determined upon. The function of the existing legislature in the matter is limited to naming the articles of the constitution to be revised, and propositions on this point have been in hot debate since February. On the passage of a bill naming the articles, the chambers will be *ipso facto* dissolved and elections will be held in June for the revising chambers. It is settled that the electoral franchise is to be greatly widened, but what other changes will be made is still uncertain. — The completed elections for the Storthing in November showed very important gains for the Radicals, and thus brought prominently forward **the demand for a separate consular system in Norway**. Premier Steen endorsed a motion looking to that end in February, but the King refused to act except through the Council of State, which includes Swedes. The Steen cabinet claimed exclusive authority in the matter, as a purely Norwegian affair. A crisis was avoided by the King's allowing the ministry to bring in its bill, but with an explicit announcement of his resolution to consider later both the substance of the bill and the manner of procedure upon it, under the provisions of the treaty of union. The ministry then announced that this attitude of the King was not taken by its advice. The discussion of the law was postponed until May. — **Portugal's desperate finances** were responsible for another cabinet crisis in January, resulting in a ministry under Senhor Jose Dias Ferreira. The measures adopted by this government to establish an equilibrium at the treasury are heroic. They include a reduction of from five to twenty per cent in official salaries, an increase of from ten to twenty per cent in all taxes, and a thirty per cent income tax on bondholders in Portugal who refuse to agree to the terms of readjustment accepted by foreign creditors, who in turn are asked to consent to a scaling of the capital by one-half. The King and royal family have renounced twenty per cent of their endowments. Public sentiment approved all these measures, but almost unanimously rejected a suggestion that part of the nation's colonial possessions be sold. — **The insurrection in Yemen** against the authority of the Porte, which has been reported as subdued several times, is now admitted to be still under very successful headway. The Arabs refuse to submit except on very favorable terms as to exemption from taxation. — **The Danubian states** have enjoyed a period of relative calm, though both Servia and Rumania have suffered from great ministerial instability. In Servia Premier Pachitch finally, in April, perfected an arrangement that promised to satisfy the majority for a time. Ex-King Milan, in November, signed a formal renunciation of all his legal and constitutional rights in Servia. The overthrow of two Rumanian cabinets in close succession in December was followed by elections in Feb-

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ruary, in which the Conservative ministry achieved a sweeping victory. Bulgaria has manifested her appreciation of her former Prince, Alexander of Battenberg, by awarding him a substantial pension (50,000 francs), the vote in the Sobranje on the proposition being unanimous and enthusiastic. Prince Ferdinand was the first to suggest the idea. The assassination of Dr. Vulkovitch, the Bulgarian agent in Constantinople, February 24, excited profound feeling against Russia, in whose pay the assassin was believed to be. Two persons charged with the crime were taken under the protection of the Russian embassy, and this fact called forth in April a very energetic protest by Bulgaria to the Porte, demanding the extradition of the accused and insisting on the banishment of Bulgarian exiles from European Turkey. — **A change of ministry in Greece** was effected March 1, by the action of the King in dismissing M. Delyannis and his cabinet after they had declined to resign. The reason assigned for this action was that Delyannis showed an insufficient appreciation of the government's financial difficulties. M. Tricoupis declined to form a ministry and hence the King called upon M. Constantopoulo, who assumed the government, with a programme of radical retrenchment and careful measures to satisfy the nation's creditors.

AFRICA. — The death of the Khedive of Egypt, Tewfik Pasha, occurred January 7. He was succeeded by his son Abbas, a youth in his eighteenth year. Some little diplomatic sparring was engaged in by the European powers pending the Sultan's formal recognition of Abbas. France and Russia conceived the occasion to be a good one to weaken England's hold on Egypt, but British influence prevailed and the Porte's course conformed to Lord Salisbury's advice. The British agent at Cairo refused to permit the formal reading of the Sultan's firman of investiture of the new Khedive until certain expressions asserting Egypt's exclusion from the Sinaitic peninsula were modified. This difficulty was removed and the formal investiture performed April 14. The financial statement for 1891 shows a continuance of the successful results already reached by English administration. The surplus is £1,100,000, of which £800,000 goes into the reserve set aside for ultimate application to payment of the public debt. — **The colonial interests of the European powers** in Africa have occasioned a variety of more or less important and expensive incidents. Insurrectionary movements in January among the native tribes in Morocco, near Tangier, attracted attention less from their intrinsic importance than from the celerity with which Great Britain, France, Italy and Spain despatched strong naval forces to the port. The impression was not without foundation that these forces were designed as much to watch one another as to influence the natives to order. British and German forces each suffered serious defeats from the natives in their respective East African spheres of influence during January. In the Senegal region the French were engaged all winter in hostilities against the chief Samory, whom they ultimately defeated. In April the King of Dahomey began operations against the French settlement at Porto Novo, on the coast, and on April 21 the government at Paris announced a resolution to undertake a decisive campaign against the king. The French have also met with difficulty in Madagascar, where the Malagassy government, by granting exequaturs to consuls without consulting the French Resident, has sought to avoid recognition of the French protectorate.

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ORIENTAL NATIONS. — A series of insurrectionary **disturbances in China** kept the northeastern part of the empire in great turmoil during the fall and early winter. The disorders were connected in some way with the anti-Christian feeling, and shocking massacres of European missionaries and native converts were reported. By the end of December the government's authority had been restored. Indemnity for the previous destruction of missionary life and property has been fully made. — The new constitutional system in **Japan** has experienced the shock of a dissolution of Parliament. After hard struggles with a strong opposition the government dissolved the lower house December 25. Financial questions furnished the chief points of contention, though personal and factional ends were involved. The elections were held in February, and resulted in a very evenly divided house, with the government perhaps in rather the better position. The elections were attended with considerable rioting, and there was a large percentage of absentees from the polls. A cabinet crisis occurred in March, caused apparently by the personal and factional interests. — In **Persia,** a tobacco monopoly conceded to a British company by the Shah led to such popular commotions about January 1 that the concession was cancelled and the company was obliged to put up with considerable loss on their investment. Hostility to foreigners was the chief feature in the popular opposition.

SOUTH AND CENTRAL AMERICA. — A revolutionary condition in Brazil has prevailed throughout the period under review. The strained relations between President da Fonseca and the Congress (*cf.* last RECORD) culminated in a decree of November 3 by which da Fonseca dissolved the Congress, put Rio Janeiro under martial law and assumed practically dictatorial powers. He charged the Congress with working for a restoration of the monarchy, though the definite acts seem to have been merely opposition to some of the President's financial schemes and a movement toward impeaching him. Discontent with da Fonseca's proceedings was manifested in a number of the states, and in Rio Grande do Sul a provisional government was set up, declaring its independence of Brazil. The President was in the midst of vigorous measures to enforce his authority, and had just appointed the day for new elections for Congress when, on November 23, a popular insurrection in Rio Janeiro, supported by the officers of the navy, forced him to resign his office. He was succeeded by Vice-President Floriano Peixotto, who annulled the dissolution of Congress and summoned its members to resume their session in December. The process of adjusting affairs in the various states to the new situation gave rise to a series of disturbances at intervals throughout the winter, the general result being the establishment of state governments in harmony with the Peixotto administration. Rio Grande do Sul was declared pacified in April, but at the same time Matto Grosso, the largest state of the Brazilian republic, declared its independence. This state is located in the west of Brazil, on the Paraguay River, and is very inaccessible from Rio Janeiro. The outcome of its revolt, therefore, is doubtful. Congress was prorogued January 22, but before closing its session it conferred unlimited powers on Peixotto. The latter has taken no steps as yet toward an election to fill the vacancy caused by da Fonseca's retirement, though the constitution requires it. Early in

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April a petition signed by army officers urging an early election was met by the dismissal of the officers from the army. The petition was apparently in the interest of da Fonseca. An insurrection in Rio Janeiro, April 11, was promptly suppressed. Dom Pedro, the exiled Emperor of Brazil, died December 4. — The constitutional régime in Chili has been fully restored. Admiral Jorge Montt, who led the Congressists in the campaign against Balmaceda, was chosen President by the electors, November 18. In the meantime the provisional government had resigned its functions to the newly organized Congress a week earlier, and with the inauguration of President Montt, December 27, the old constitutional order was fully in force. Impeachment proceedings have been instituted against the leaders in the Balmacedan government, most of whom, however, are in exile. — In addition to the chronic financial troubles in **the Argentine Republic**, the presidential elections have contributed to the difficulties of the government. An agreement of the two great parties in December to support the candidacy of General Mitre failed of its peaceful prospects through the withdrawal of Mitre in March. The combined parties then agreed upon Dr. Saenz Peña, but the Radical wing of the Union Civica set up an opposition candidate and began an aggressive campaign. Insurrectionary movements were discovered and on April 2 the government proclaimed a state of siege and suppressed the Radicals by summary measures. The state of siege was suspended during the elections of April 9, but the supporters of Saenz Peña were entirely successful, and unless some new revolutionary development occurs, he will be formally chosen by the electors in June. — **Uruguay** has effected a settlement with her foreign creditors by which they agree to take 3½ per cent on a consolidated debt that had previously paid 5 and 6 per cent. Payment of interest under this agreement is secured by a pledge of 45 per cent of the customs revenue, to be turned over daily to a designated depositary. — **Venezuela** has been in the throes of a revolution during the spring. Dissatisfaction with President Palacio took head in an insurrection headed by ex-President Crespo. The number of the insurgents increased after Palacio, in conflict with the Congress at Caracas, dissolved that body and arrested a number of the members. Pretty severe fighting has been in progress for some weeks and according to reports from Palacio's adherents the insurgents have been steadily defeated. — The presidential election in **Guatemala**, January 1, resulted in the choice of Reina Barrios. Despite persistent reports that the incumbent, Barrillas, was scheming to retain his office by force, the newly-elected President was inaugurated without disturbance, and Barrillas was appointed to a high position in the army.

WM. A. DUNNING.

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